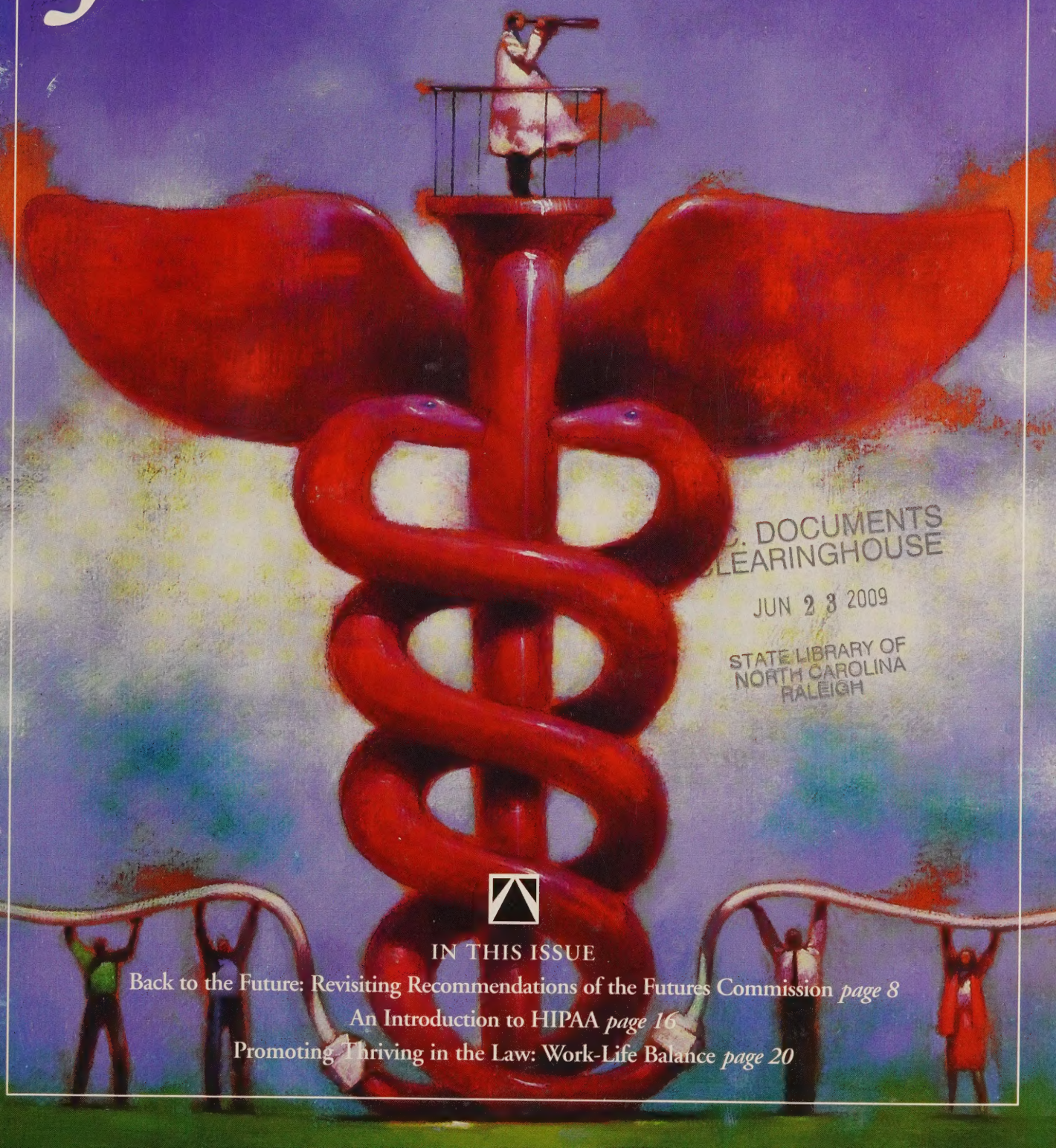
THE NORTH CAROLINA STATE BAR

JOURNAL

SUMMER
2009



IN THIS ISSUE

THE NC ACADEMY OF SUPERIOR COURT MEDIATORS
www.NCMediators.org

Over 80 of the state's foremost mediators - calendars & profiles now online

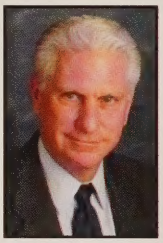
At **www.NCMediators.org/quicksearch** you can search by case expertise, preferred location or ADR service in just *seconds* - You can then determine availability by checking members' **online calendars**, saving your firm HOURS of scheduling time

The Academy is pleased to recognize the following distinguished members...

Sarah Corley, Asheville
T: (828) 232-2800
Profile and Calendar online at
www.ncmediators.org/sarah-corley

Hampton Whittington, Benson
T: (919) 894-8565
Profile and Calendar online at
www.ncmediators.org/hampton-whittington

Randolph Ward, Cary
T: (919) 467-6195
Profile and Calendar online at
www.ncmediators.org/randolph-ward



David Hamilton, Charlotte
T: (704) 344-1117
Profile and Calendar online at
www.ncmediators.org/david-hamilton

Robert Baker, Durham
T: (919) 489-3553
Profile and Calendar online at
www.ncmediators.org/robert-baker

Kathleen Wallace, Durham
T: (919) 286-2645
Profile and Calendar online at
www.ncmediators.org/kathleen-wallace

Thomas Duncan, Greensboro
T: (336) 274-7243
Profile and Calendar online at
www.ncmediators.org/thomas-duncan

Holt Gwyn, Greensboro
T: (336) 691-9222
Profile and Calendar online at
www.ncmediators.org/holt-gwyn

Ellen Gelbin, Lewisville/Triad
T: (336) 945-0214
Profile and Calendar online at
www.ncmediators.org/ellen-gelbin

Ann Anderson, Pilot Mountain
T: (336) 368-9621
Profile and Calendar online at
www.ncmediators.org/ann-anderson

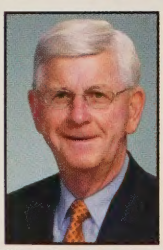
Donald Beskind, Raleigh
T: (919) 828-4357
Profile and Calendar online at
www.ncmediators.org/donald-beskind

Richard Boyette, Raleigh
T: (919) 863-8729
Profile and Calendar online at
www.ncmediators.org/richard-boyette

Jacqueline Clare, Raleigh
T: (919) 755-9979
Profile and Calendar online at
www.ncmediators.org/jackie-clare

Elizabeth McCrodden, Raleigh
T: (919) 834-5955
Profile and Calendar online at
www.ncmediators.org/elizabeth-mccrodden

Robert Meynardie, Raleigh
T: (919) 786-2504
Profile and Calendar online at
www.ncmediators.org/robert-meynardie



William King, Research Tri.
T: (919) 286-8174
Profile and Calendar online at
www.ncmediators.org/william-king

Marshall Gallop, Rocky Mount
T: (252) 937-2200
Profile and Calendar online at
www.ncmediators.org/marshall-gallop

Ralph Meekins, Shelby
T: (704) 487-1234
Profile and Calendar online at
www.ncmediators.org/ralph-meekins

Ashley Edwards, Wilmington
T: (910) 251-0004
Profile and Calendar online at
www.ncmediators.org/sherman-criner

James Long, Yanceyville
T: (336) 234-9636
Profile and Calendar online at
www.ncmediators.org/james-long

Visit our complete Academy roster at www.NCMediators.org/roster

THE
NORTH CAROLINA
STATE BAR
JOURNAL

Summer 2009
Volume 14, Number 2

Editor
Jennifer R. Duncan

Publications Committee
Margaret McCreary, Chair
John E. Gehring, Vice-Chair
David Benbow
Dorothy Bernholz
Lauren Collins
Christin B. Coan
G. Stevenson Crihfield
Forrest A. Ferrell
Michael Dayton
George L. Jenkins
Robert C. Montgomery
Barbara B. Weyher
Alan D. Woodlief Jr.

 The *North Carolina State Bar Journal* (ISSN 10928626) is published four times per year in March, June, September, and December under the direction and supervision of the council of the North Carolina State Bar, 208 Fayetteville Street, Raleigh, NC 27601. Member rate of $6.00 per year is included in dues. Nonmember rates $10.68 per year. Single copies $3.21. The *Lawyer's Handbook* $10.68. Advertising rates available upon request. Direct inquiries to Director of Communications, the North Carolina State Bar, PO Box 25908, Raleigh, North Carolina 27611, tel. (919) 828-4620. Periodicals postage paid at Raleigh, NC, and additional offices. Opinions expressed by contributors are not necessarily those of the North Carolina State Bar. POSTMASTER: Send address changes to the North Carolina State Bar, PO Box 25908, Raleigh, NC 27611. The *North Carolina Bar Journal* invites the submission of unsolicited, original articles, essays, and book reviews. Submissions may be made by mail or e-mail (ncbar@bellsouth.net) to the editor. Publishing and editorial decisions are based on the Publications Committee's and the editor's judgment of the quality of the writing, the timeliness of the article, and the potential interest to the readers of the *Journal*. The *Journal* reserves the right to edit all manuscripts.

www.ncbar.gov

PRINTED ON RECYCLED PAPER

Contents

FEATURES

Continued on page 4.

Update Membership Information: Members who need to update their membership information must do so by contacting the Membership Department via one of the four following methods: (1) log on to the Member Access section of the State Bar's website (www.ncbar.gov); (2) mail changes to: NC State Bar, PO Box 25908, Raleigh, NC 27611-5908; (3) call (919) 828-4620; or (4) send an e-mail to lchildree@ncbar.gov. **In deciding what address to list with the State Bar, be advised that this address will be used for all official correspondence from the State Bar and that membership information is a public record pursuant to the NC Public Records Act.**

Contents

DEPARTMENTS

BAR UPDATES

DEPRESSION, STRESS, CAREER ISSUES, AND ADDICTIONS. BELIEVE IT OR NOT, THIS IS AN UPLIFTING STORY.

Actually, there are many stories. Every one of them about someone in the legal field.

Lawyers are as vulnerable to personal and professional problems as anyone else.

Competition, constant stress, long hours, and high expectations can wear down even the most competent and energetic lawyer. This can lead to depression, stress, career problems, relationship issues, financial problems, or alcohol and substance abuse.

So where's the uplifting part? That's where we come in.

The Lawyer Assistance Program was created by lawyers for lawyers. While we started as a way for attorneys to deal with alcohol related problems, we now address any personal issue confronted by those in the legal profession.

Our message to anyone who may have a personal issue, whether a lawyer, a judge, or a law student, is don't wait. Every call we take is confidential and is received by a professional staff person. You can be confident that you're talking to the right person and that no one will know about it.

We understand what it's like to face personal problems within the profession, because we only help lawyers.

Our service is not only confidential, it's free, paid for with your yearly bar fees.

If you have a personal issue, or know someone who does, we can be the crucial first step in turning things around, a role we've played for many of your peers.

We have countless success stories we could tell, and yes, they are uplifting. But we do our work quietly, confidentially, and professionally so the stories will stay with us.

We're here for you. Visit **www.nclap.org**, call **1-800-720-7257** or email@nclap.org.

We can help if you get in touch with us.

PALS

LAP
Lawyer Assistance Program

FRIENDS

FOR THE ISSUES OF LIFE IN LAW

The Professional Responsibility of Pro Bono Services

BY JOHN B. MCMILLAN

"Do a good deed daily" is the Boy Scout Slogan that many of us learned at an early age. One of the four lines of the Girl Scout Promise is "To help people at all times." In the Christian religion, "Do unto others as you would have them do unto you," is called the Golden Rule.

Although, after the passage of a whole lot of years, I cannot remember all of the details of Dr. Sam Hill's comparative religion course at UNC-Chapel Hill, I do recall that the concept of being helpful to others is a standard of all of the world's major faith organizations. "Every religion emphasizes human improvement, love, and respect for others, sharing other people's suffering. On these lines, every religion has more or less the same viewpoint and the same goal." The Dalai Lama.

On the website of the Tanenbaum Center for Interreligious Understanding, I was reminded that "charity" is another shared belief among the world's great religions. Islam teaches: "Every person's every joint must perform a charity every day the sun comes up; to act justly between two persons is a charity; to help a man with his mount, lifting him onto it or hoisting up his belongings onto it is a charity; a good word is a charity; every step you take in prayer is a charity; and removing a harmful thing from the road is a charity." *Forty Hadith of an-Nawawi.*

From Taoism: "Relieve people in distress as speedily as you must release a fish from a dry rill [lest he die]. Deliver people from danger as quickly as you must free a sparrow from a tight noose. Be compassionate to orphans and relieve widows. Respect the old and help the poor." *Tract of the Quiet Way.*

These concepts are at the heart of the message in my father's favorite poem "House by the Side of the Road" by Sam Walter Foss and its refrain: "Let me live in a house by the side of the road and be a friend to man."

Our State Bar, with the approval of the North Carolina Supreme Court, long ago incorporated these teachings into the Preamble of the Rules of Professional Conduct: "A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for those who, because of economic or social barriers, cannot afford or secure adequate legal counsel."

North Carolina's Rules of Professional Conduct are based on The American Bar Association's Model Rules, but differ from the Model Rules in some respects. One of those differences is the absence of Model Rule 6.1, Voluntary Pro Bono Publico Service. Forty-four states have now adopted some version of Model Rule 6.1. Six have not: California, Illinois, Ohio, Oregon, Texas, and North Carolina. However, no state makes pro bono service mandatory. When the issue of whether to adopt the rule has come up in the past, the primary reason for our reluctance has been that the rule represents an aspirational concept and not the "shall" or "shall not" imperative found in most of our other rules. This argument certainly has some merit, and I have subscribed to that position in the past. However, we do have rules that leave conduct to the judgment of the lawyer, and section 1 of the Scope of our Rules provides: "The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the rules are imperatives, cast in the terms of 'shall' or 'shall not.' These define proper conduct for purposes of professional discipline. Others, generally cast in the term of 'may,' are permissive and define areas under the Rules in which the lawyer has the discretion to exercise professional judgment." The Model Rule provides:

ABA Model Rule 6.1: Voluntary Pro Bono Publico Service:

Every lawyer has a professional responsibility to provide legal services to those unable to

pay. A lawyer should aspire to render at least (50) hours of pro bono legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:

(1) persons of limited means or

(2) charitable, religious, civic, community, government, and educational organizations that are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties, or public rights, or charitable, religious, civic, community, governmental, and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system, or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

Comment [12] to the Model Rule provides that "The responsibility set forth in this Rule is not intended to be enforced through disciplinary process."

The concept of pro bono service being a part of our professional standards is not a new one. When the American Bar Association adopted its Canons of Ethics in 1908, Canon 12 incorporated this idea and included the following language: "A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all."

The 1983 version of Model Rule 6.1 does not include the suggested hours or the emphasis on service to the poor and is much more condensed.

1983 version of Model Rule 6.1:

A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or at a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system of the legal profession, and by financial support for organizations that provide legal services to persons of limited means.

Thirteen states have adopted and retained a rule that is exactly the same as or substantially similar to the 1983 version of Model Rule 6.1: Alabama, Connecticut, Delaware, Indiana, Kansas, Michigan, Missouri, New Jersey, North Dakota, Pennsylvania, South Carolina, and West Virginia.

In 2006, the North Carolina Bar Association adopted a resolution asking the State Bar to adopt Model Rule 6.1. In the initial report of the North Carolina Equal Access to Justice Commission, the commission also called on the State Bar to take that action. I agree that it is time for us to take another look at this issue and have asked our Issues Committee to do so. Alice Mine has compiled materials for the committee to consider, including the applicable rule of each state. In their work, the Issues Committee will be considering a number of questions:

1) Should we adopt Model Rule 6.1, either in its current or 1983 version, or should we continue to rely on the language in the Preamble?

2) Should the rule include a suggested number of hours of service? If so, how many? (Many states follow the ABA suggestion of 50 hours, but the range is from 20 to 50 hours per year; one state, Virginia, says 2% of a lawyer's professional time per year.)

3) Should the rule emphasize the provision of legal services to "persons of limited means" (like the current Model Rule 6.1) or include other activities that would be considered "public interest legal service" (like the 1983 version of Model Rule 6.1)?

4) Should the rule approve the substitution of a financial contribution in lieu of service? (Several states provide for this and even include recommended amounts ranging from $200 to $500 to 1% of taxable professional income.)

5) Should there be any reporting requirement or opportunity to report the number of hours spent doing pro bono work? (The following states have mandatory reporting to the State Bar or Bar Association: Florida, Hawaii, Illinois, Maryland, Mississippi, Nevada, and New Mexico. The following states have voluntary reporting: Arizona, Georgia, Kentucky, Louisiana, Missouri, Montana, Oregon, Texas, Utah, and Washington.)

6) How do we define what type of legal services will satisfy this professional obligation? This may be the most difficult question.

Like most matters at the State Bar, this subject will generate lively debate. It will go through our committee process, with the Issues Committee making the initial recommendation to the Executive Committee for its consideration and submission to the council. If the council approves a proposed amendment to our Rules of Professional Conduct, that proposal will then be published in this *Journal*. Comment will be solicited from all 23,000 members of the State Bar. After this opportunity for comment, the matter will again be brought before the council. If adverse comments are received, it will go back to the Issues Committee for review of that input from members. If a rule change is finally adopted by the council, it then goes to the North Carolina Supreme Court for approval.

I have become convinced that it is time for North Carolina to join most other states and make this professional obligation a part of our Rules of Professional Conduct. It needs to be put in a place of prominence within the Rules themselves, and not merely remain a part of the introductory comments. We are in the distinct minority in how we deal with this fundamental principle. If adopted, it will more than likely be an aspirational rule with a "Comment" similar to the Model Rule Comment that makes it clear that a violation of this rule would not subject the lawyer to discipline. I would oppose a *mandatory* reporting requirement because that would raise the question of what to do if a lawyer fails to report. I will follow with interest the debate on whether to provide for the *voluntary* reporting of pro bono hours.

I understand that these are difficult times for many lawyers and law firms. But we are a privileged group of men and women who have a monopoly on providing legal services. If we don't perform these services, either ourselves or through our legal aid organizations, they won't be provided. Although the times may be hard for us, they are even more difficult for those in poverty, the unemployed, and others less fortunate than we are. We have a professional obligation to assist them. Let each of us live in a house by the side of the road and be a friend to those in need. ■

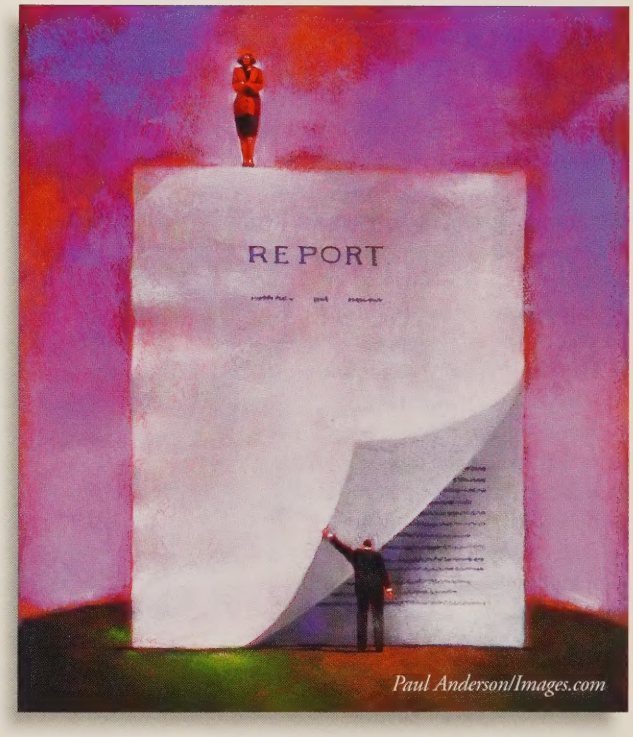
McMillan earned both his BA and JD degrees from the University of North Carolina at Chapel Hill. He was admitted to the practice of law in 1967. That same year he joined the firm with which he still practices—Manning, Fulton & Skinner, P.A.

Back to the Future:

Revisiting the Recommendations of the Commission for the Future of Justice and the Courts in North Carolina

By Michael Crowell

This article was written just as the 2009 General Assembly was getting underway. At the time of writing, legislation had been introduced consistent with some of the Futures Commission's recommendations—e.g., merit selection of judges, Supreme Court control of rules of procedure, a separate office for prosecutors—but it was too early to know whether any of those efforts would be successful.



Paul Anderson/Images.com

In December 1996 the Commission for the Future of Justice and the Courts in North Carolina—more commonly known as the "Futures Commission" or the "Medlin Commission" after its chair, John G. Medlin Jr.—issued its report, "Without Favor, Denial, or Delay," a 92-page blueprint for improvement of the state court system. It was the first comprehensive review of the General Court of Justice since its establishment in the 1960s.

The commission called for a significant restructuring: a judicial council to allocate funds within the court system, set salaries, determine jurisdiction of trial courts and realign districts; merger of the district and superior courts into a single-level trial court with many fewer districts; transfer of prosecutors to the executive branch; appointment of all judges; the creation of more "problem-solving courts" such as family court; and so on. Some of the commission's proposals were implemented—the family court idea has been popular, for example, and the judicial council was established, although not with the kind of authority recommended—but no significant restructuring of the court system has taken place.

A major premise behind the Futures Commission recommendations was that in a time when state population and caseloads are rising dramatically, court resources are limited and are likely to remain so. Therefore, a more efficient way of doing business is essential. With the current economic crisis hitting the state, and resources more precious than ever, it is a good time to look back at the Futures Commission's recommendations

and see whether some ought to be dusted off and brought back for debate.

The Futures Commission

The Futures Commission was established by Chief Justice Jim Exum in 1994 and continued by his successor, Burley Mitchell. Its chair was John Medlin Jr., retired chairman of Wachovia, and the vice-chairs were former Chief Justice Rhoda Billings and retired superior court judge Bob Collier. The commission had a diverse and distinguished list of members, from lawyers and business CEOs to legislators and newspaper editors and police chiefs. There were no sitting court officials, however, as Chief Justice Exum wanted commission members to approach their work free of any ties to the present court organization. Still, a number of sitting judges, clerks, and prosecutors served advisory committees and by that means helped shape the commission's recommendations.

The commission met almost monthly for nearly two and half years, held numerous hearings, conducted polls, visited other states, circulated papers for discussion, and finally issued its report in December 1996. Both the North Carolina Bar Association and General Assembly later established special committees to review the recommendations. Some proposals were successful, and the commission's report has been mentioned frequently in public debate about the courts, but interest faded after a few years.

Commission Themes

Several major themes run through the Futures Commission's report and shape the recommendations. First is the accountability of court officials, which in turn depends on their having sufficient authority to warrant being held responsible. Independence of the judiciary likewise is of great importance. The court structure must be flexible. And justice should be uniform throughout the state.

Those themes strongly echo the work of the Bell Commission (named for its chair, Spencer Bell), which was the driving force in the 1950s for the last major overhaul of the courts in North Carolina: the 1962 revision of the State Constitution. The Bell Commission applied the same fundamental principles—accountability, independence, flexibility, and uniformity. For the Bell Commission that meant, more than anything else, elimination of the hodgepodge of local courts that then existed, substituting in their place the statewide General Court of Justice with its new district court division and court of appeals, operated by officials who all became state employees, subject to uniform rules of jurisdiction and procedure. Committed to the same guiding principles, the Futures Commission often found itself looking back at the Bell Commission and trying to apply that study's vision to the courts of the 21st century.

Accountability and responsibility - Perhaps most important for the Futures Commission was the premise that court officials must be accountable for efficient management of the system, and to be accountable they must be given authority to manage. The judiciary should be a truly independent, equal branch of state government, with court officers given the power to decide how to allocate funds, where to assign personnel, what procedure to follow, and how to organize districts. Thus, the Futures Commission recommended:

- Creation of a Judicial Council which would submit the courts' budget directly to the General Assembly rather than going through the governor.
- Appropriation of funds to the courts in two lump sums, one for personnel and one for non-personnel, with court authority to decide how to allocate moneys within those broad categories.
- Appointment of a single chief judge for each district by the chief justice, following the consolidation of districts and the merger of superior and district court into a single trial court.
- Employment of a professional court administrator for each district.
- Authorization for the Judicial Council to set judicial salaries, subject to veto by the legislature.
- Establishment of performance standards for court officials.
- Enactment of all rules of procedure and evidence for all levels of court by the Supreme Court.
- Authorization for the Judicial Council to redraw judicial district lines.
- Elimination of the concept of terms of court, and assignment of more cases to judges to hear from start to finish.
- Appointment of magistrates by the chief judge, the same official who is responsible for their supervision.

These recommendations in particular harken back to the Bell Commission. It believed that "effective administration of justice, as any other type of administration, requires that responsibility be fixed upon a single point or agency."[1] Consistent with that view, the Bell Commission had wanted the chief justice to appoint all district judges and the supreme court to determine the jurisdiction of the trial divisions and set all rules of procedure for both the trial and appellate courts. Those proposals did not make it into the uniform court system established in the 1960s and, in the eyes of the Futures Commission, the absence of a fixed point of responsibility—and sufficient authority for judicial officials to manage the courts—continues to trouble the court system.

Independence - A second strong theme of the Futures Commission recommendations, closely related to accountability and responsibility, is judicial independence. To that end the commission proposed that all judges be appointed rather than elected, subject to retention elections. As already mentioned, the commission also favored the establishment of performance standards for judges. Those standards would be used for periodic evaluations, with the results made public, along with a recommendation on whether the judge should be retained. Other aspects of judicial independence proposed by the commission include court control over rules of procedure and organization of judicial districts. Recognizing that prosecution is an executive, not judicial function, the Futures Commission would have transferred district attorneys to a new state solicitor's office under the attorney general. Likewise, the defense of indigents would be the responsibility of a new executive branch agency.

Flexibility - Perhaps of most interest in the current economic situation, a principal theme of the Futures Commission is flexibility, the creation of a court structure which is capable of adjusting to changing caseloads and changing responsibilities. The Bell Commission had the same goal. To maintain flexibility after the establishment of the General Court of Justice with its two-tiered trial division, the Bell Commission would have allowed the Supreme Court to adjust the responsibility and jurisdiction of district and superior court by court rule. It also would have authorized superior court judges to be assigned for temporary duty to the district

court or court of appeals. The General Assembly kept control of court jurisdiction for itself, however, and the incremental adjustments that have made it through the legislative process over the years have not kept up with the changing workload.

Traffic offenses and domestic cases have overwhelmed the district court; civil actions in superior court have declined relative to other cases; the urban areas of the state have exploded in population; judicial districts have been split and re-split to accommodate local politics; and terms of court and rotation still circumscribe the availability of superior court judges. Some courtrooms are busy beyond capacity every day of the week and others sit empty after the calendar is completed or breaks down on Tuesday. Consequently, the Futures Commission concluded that the present court structure was not sufficiently flexible and needed to be reconsidered.

Foremost of the flexibility recommendations is that the district and superior courts be merged into a single-level trial court, to be called a circuit court. The multitude of judicial districts which have come about in recent years, often with no tie to workload and court efficiency, would be consolidated to around a dozen to 18 circuits and could be redrawn by the Judicial Council when necessary. Judges would be assigned to different kinds of court based on ability, experience, and interest, and would hold court only within the circuit. Court would be in session at all times within a circuit, eliminating the restrictive concept of terms of court. The Judicial Council would be able to increase the jurisdiction of lawyer magistrates.

Flexibility also would be promoted by some of the recommendations mentioned earlier, such as giving the Supreme Court control over rules of procedure and allowing judicial officials to decide where best to allocate personnel and other resources.

Uniformity - Uniformity was a driving force for creation of the General Court of Justice, and North Carolina made great strides as a result. The Bell Commission saw uniformity from the establishment of "one court, rather than many different courts to serve the state."[2] The General Court of Justice and the new statewide district court replaced the mishmash of municipal courts, recorders courts, justices of the peace and the like. Many other states still are burdened with varieties of local courts with vastly different jurisdictions, procedures, and resources.

Unfortunately, the uniform statewide court system created here in the 1960s has fallen prey to local political maneuvering, huge differences in population growth, and limited state dollars. Judicial and prosecutorial districts have been subdivided for many reasons other than workload; new positions have been added unevenly; some districts have become too small to support the administrative and technical assistance needed in a well managed system; local governments have been allowed to affect resources by supplementing state funding of operating expenses; and innovative programs have begun as pilots, then remained available only in some jurisdictions.

The result is that by many measures, the court system is becoming less and less uniform. Instead of 30 districts unified for superior court, district court, and prosecution purposes, as existed in the 1960s, today there are 50 superior court districts and 43 district court and prosecutorial districts with varying lines. When the General Court of Justice was established, the largest district had about four times the population of the smallest; now the difference is 16 to one. In the last reporting year one judicial district had only 125 civil superior court filings, 913 felonies filed, and eight felony trials while another district had 3,609 superior court civil filings, 9,553 felonies filed, and 225 felony trials. Twenty-two counties in 13 districts have family courts, but 78 counties do not; likewise, 19 counties in 15 districts have drug treatment courts while the other 81 counties do not. A few county governments help the courts by spending millions of dollars to pay for additional prosecutors, public defenders, and clerks, but all the other counties rely solely on state operating funds.

The principal recommendation of the Futures Commission to address the uniformity issue is, as discussed above, the consolidation of the superior and district courts into a single trial court and the drastic realignment and reduction in the number of districts. With 12 to 18 circuits—the commission's new term for judicial districts—workloads would be more evenly distributed. Most importantly, each district would have the critical mass of cases and population to justify the specialty courts and administrative and technical assistance that ought to be available to citizens throughout the state rather than in just some areas.

Other ideas - Some other recommendations of the Futures Commission do not fit so neatly into the categories discussed above but certainly are consistent with the themes of responsibility, accountability, independence, flexibility, and uniformity. Among the other recommendations are:

- Creation of a family court in which all matters involving the same family are heard by a single judge; case managers are employed to manage the docket; alternative dispute resolution is required for most issues; and non-judicial resources are available to assist with the problems that cause or result from the family breakup.
- Revision of the jury system to allow six-member juries in misdemeanors; elimination of the trial *de novo* system for misdemeanors; permissible waiver of jury trials in all criminal cases; and a constitutional amendment to provide that the legislature may decide whether jury trials should be required for cases involving less than six months imprisonment.
- Investment in a wholesale upgrade in court technology, including a single case management system, assignment of a unique and permanent identifier for each individual, appearances of defendants by audio and video link, and warrant centers for the criminal justice information system.

What Happened and What Didn't

Although the Futures Commission viewed its recommendations as a package with several parts dependent on each other, its proposed overhaul of the court system never came close to enactment. Any number of reasons explain the lack of interest in the reorganization of the courts. There was no pending crisis to spur things along; court organization issues do not grab the public imagination; legislators react slowly to big ideas; and many court officials made clear they did not want any change at all. With no strong interest in the commission's overall plan for revamping the court system, individual recommendations were separated out for consideration. A few were hits, most went nowhere.

Family court - The biggest success has been the family court. Although the structure is not exactly what the Futures Commission drew up, 13 districts encompassing 22 counties have established family courts and most everyone seems to agree it

is an improvement. The receptivity to the family court recommendation may be partly attributable to the recent trend toward "problem-solving courts," a new view of the judicial system that sees the courts' role as something much broader than just adjudicating cases. Courts become more like social service agencies to help solve the underlying problems that put the parties in the courtroom. Family courts are consistent with that model, as are the state's new drug treatment courts and mental health courts.

State Judicial Council - In 1999 the General Assembly established the State Judicial Council with essentially the membership recommended by the Futures Commission. The council's duties include advising the chief justice on budget matters as well as studying and recommending salaries, new judgeships, court performance standards, case management guidelines, and changes in judicial district boundaries. While a significant step forward, the council is not nearly the "board of governors" for the court system that the Futures Commission envisioned. The commission wanted the judicial council itself to be able to act on performance standards, salaries, judicial district boundaries, and those other issues, rather than just making recommendations. The commission thought that a strong judicial council, with prominent business leaders among its members, would make legislators more comfortable with loosening their control over the operation of the judicial branch.

Selection of judges - Although for decades every study on the issue, like the Futures Commission report, has recommended merit selection of judges—usually meaning the Missouri Plan of appointment by the governor followed by "yes" or "no" retention elections—North Carolina has yet to embrace that reform. Nevertheless there have been significant changes in the manner of electing judges since the commission report. All judicial elections now are nonpartisan and North Carolina has adopted a groundbreaking public financing scheme for candidates for appellate judgeships. Certainly appellate judges' reliance on lawyers for contributions has diminished greatly, but that is still the world for trial judges where perceived bias may be more of an issue. Political parties still endorse and support candidates, and capable judges still cannot plan on long tenure as long as challengers keep lining up to run in races that draw minimal public attention and knowledge.

Performance standards and evaluations - The Futures Commission tied performance standards and regular evaluations of judges to a merit-selection appointment process. Although there has been no progress on appointment of judges, the General Assembly directed the new State Judicial Council to recommend performance standards. Based on the council's work, the chief justice adopted standards developed by the National Center for State Courts. Since then the AOC has been working to provide various measures of case processing—case clearance percentage, number of case disposed within time guidelines, etc.—to individual court officials. The AOC also has surveyed court users about their experiences and has posted those results.

When the judicial council shied away from the job of evaluating judges, that project was taken up by the North Carolina Bar Association. In 2006 it created a Judicial Performance Evaluation Study Group and in 2008 implemented a pilot program. This initial effort solicited lawyers' evaluations and resulted in reports being distributed to all trial judges. The aggregate results were made public, but the identity of individual judges was kept secret, and only the judges saw the individual written comments made by the lawyers. Next up is a pilot to bring court personnel, witnesses, and parties into the evaluation process. At this stage the bar association is simply trying to figure out whether it is possible to create a satisfactory evaluation instrument. If that can be done, the debate will shift to how the reports should be used.

Divestiture of prosecution and defense functions - There has been little public discussion of moving prosecutors from the judicial system, but a state agency for defense of indigents, the Office of Indigent Defense Services, was established outside the Administrative Office of the Courts. Although the IDS office is within the Judicial Department it receives only administrative support from AOC and prepares and manages its own budget.

Budget autonomy - A keystone of the Futures Commission's plan for the courts was budget autonomy. The commission wanted the judicial branch to present its proposed budget directly to the General Assembly rather than going through the governor, and wanted appropriations to the courts to be made in two large lump sums, one for personnel and one for non-personnel, with court officials free to decide how to spend the money within those broad categories. Though the General Assembly has not yet seen fit to treat the judiciary as a co-equal, independent branch of state government for financial purposes, there has been some incremental loosening of the legislative purse strings. The governor now submits to the legislature the judicial branch's own budget estimates and is to consult with the chief justice on reductions when necessary to help balance the overall state budget. The AOC now has new authority to convert some contractual positions to permanent jobs. All that is a far cry from the Future Commission's proposal, however, and bills to provide court officials with more control over the judicial budget have not advanced very far in the General Assembly.

Single-level trial court—A 1999 act, Session Law 1999-396, authorized a pilot experiment with a circuit court arrangement. The pilot depended, however, on one or more judicial districts volunteering. None did.

Technology - Any meaningful discussion of court technology requires a separate article. Suffice it to say that the Futures Commission thought in 1996 that the court system was already 15 years behind in the use of technology and that enormous benefits, and savings, were possible from a substantial, well-planned investment in that area. The commission used its report, for example, to illustrate how much work could be saved by a electronic citation system in which speeding ticket information did not have to be copied and written by hand time after time.

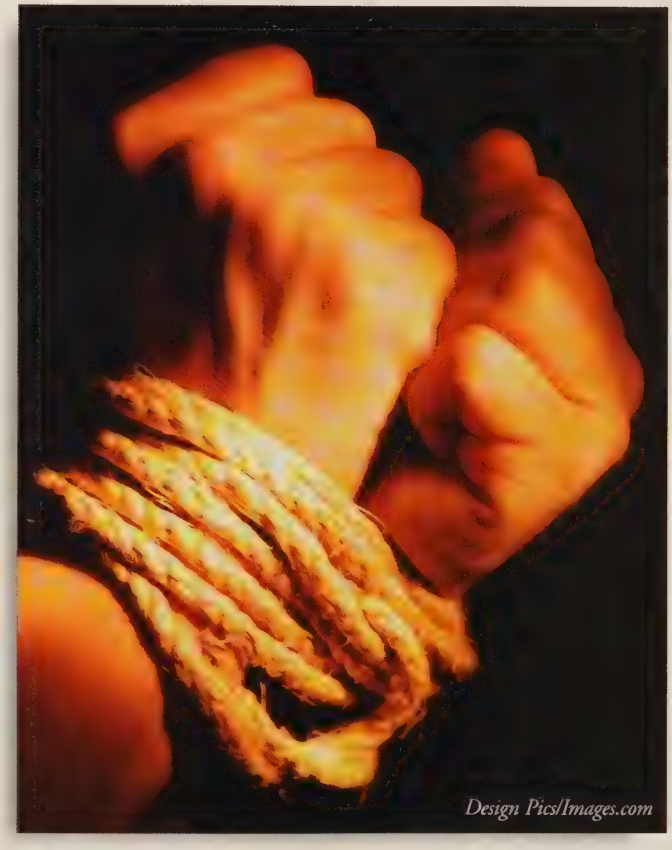
The General Assembly has enhanced the funding for court technology and a number of upgrades have been initiated, including NCAWARE (an automated repository of all outstanding criminal warrants); eCitation to automate production of criminal and traffic citations and allow electronic transmission from officers to clerks; eFiling for electronic filing of civil papers; a new information system for clerks; a case management system for DAs; automated criminal discovery for prosecutors; and ePayment to allow credit card payment for offenses that

CONTINUED ON PAGE 15

Modern-Day Slavery: Myth or Appalling Reality?

By Olga Vysotskaya

Modern day sex slavery is a hot button issue in the mass media. Frequently, we hear troubling stories about brothels employing 12-and 13-year-olds in East Asia, trafficking rings busted in Eastern Europe, and so on. On the other hand, trafficking in persons is not something that we commonly associate with the United States and even less so with North Carolina. It is definitely not something that we would normally imagine to be encountering as attorneys.



When I graduated from Campbell Law in the spring of 2003, trafficking in human beings was probably the last subject I was thinking about. My most pressing concern was to pass the bar examination, then figure out what exactly I wanted to do with my law license. My husband and I all along toyed with the idea of visiting Belarus, a former Soviet Republic where I was born and raised. The unexpected death of my mother in May 2003 sealed this plan for us. I survived the blistering heat of a July bar exam, and the same day, off we went. Once in Eastern Europe, my husband enrolled in a graduate conservatory course to study piano, and I was recruited by the International Organization for Migration for its project "Combating Trafficking in Human Beings."

Wide-eyed and full of naiveté that is common to all recent graduates, I started my first day at work. A 30-year-old woman came to my office. To protect her privacy and for purposes of this article, I will call her by a fictitious name, Irina. She told me that she had just returned from one of the Western European countries, where she worked as a prostitute. How did she get there? She was a single moth-

er who, upon her graduation from law school, could not find a job in the tough Belarusian job market. "Stop right there," I thought to myself. "A lawyer? It's not supposed to happen to well-educated people, especially to someone like myself. Someone who had a good enough head to earn a professional diploma. Seriously, a lawyer?" Her story fit neatly, as I later learned, into a scenario quite typical for Belarusian victims of trafficking. Not being able to find a decent job in Belarus, Irina was happy to come across an announcement in the newspaper about a waitress position in one of the restaurants in Western Europe, paying $1,000 per month plus tips. She was interviewed, and she was told that she got the job and that the employment agency would take care of all travel and other work-related arrangements. Once Irina arrived to her Western European destination (a trip "paid for" by the agency), her passport was taken away from her and she was put in a locked apartment with five other women, one of whom explained to Irina that she was there to prostitute, not to waitress. She had to repay "her debt" consisting of her transportation costs and phony documents; this technique, I later learned, was called "debt bondage." If she refused to comply now, drugs, beatings, rape, referral to the police as an illegal immigrant, and other pressures would be used to make her a sex slave. She initially resisted, but after the first round of beatings by her "owner," she succumbed to the pressure.

It is estimated that every year approximately 800,000 people are trafficked across national borders. This statistic is rough and does not include millions trafficked within their own countries. Approximately 80% of transnational victims are women and girls and up to 50% are minors.[1] What is human trafficking? The international community defines trafficking in human beings as: "… recruitment, transportation, transfer, harbouring, or receipt of persons...by improper means, such as force, abduction, fraud, or coercion, for an improper purpose, like forced or coerced labour, servitude, slavery, or sexual exploitation."[2] Domestic and transnational forms of trafficking are both recognized by the international community. From a practical point of view, most practitioners are likely to place a greater weight and focus on abuse of human rights and exploitation aspects of trafficking, rather than transportation. The trafficking process typically falls into several stages: recruiting, transportation/harboring/receipt, exploitation, and return or some other outcome. The techniques and methodologies used by traffickers vary and morph with time and parts of the world where trafficking occurs.

Traffickers and their intermediaries became increasingly inventive in their recruiting techniques. Trafficking victims are found through newspaper ads and TV commercials, through girlfriends who allegedly had a good experience working abroad. They are sometimes outright kidnapped or sold by family members or friends, deceived and put on the trafficking market by boyfriends in a "love story" scenario. One of the most despicable forms of recruitment I encountered involved a mentally handicapped young girl being tricked into sex trafficking by promises of sweets.

The deception, abuse, violence, and threats of force do not stop at the recruiting phase of trafficking. Instead, the cycle continues and coercion and brutality increases well into the exploitation stage. Victims' abuse takes on different shapes, such as forced abortions when a female trafficking victim becomes pregnant, force-feeding drugs to the point of addiction to secure a trafficked person's obedience, infliction of physical pain and torture, instillation of psychological barriers and fear by threats to find and punish victims' families and friends, starvation, isolation, and so on. The victims' identification and travel documents are frequently confiscated; trafficked persons could be sold and resold to different brothels, sweatshops, and "owners" numerous times, sometimes trafficking stretchs over territories of several countries. In the case of international trafficking, the stigma of being either an illegal worker or an undocumented migrant subject to deportation creates yet another obstacle to seeking help. The exploitation of a trafficked person, whether sexual or for labor, is ruthless, involving long hours of daily work for little or no compensation, countless clients, all under a veil of threats, bondage, and physical abuse.

The range of exploitation is wide, including sexual exploitation, bonded labor, forced labor, involuntary servitude, child labor and child sexual exploitation, use of child soldiers, and other forms. In Belarus and in my travel abroad during the two years of service, I came across different forms of exploitation of trafficked victims: a man who was taken to a guarded construction site in Russia to be kept in barracks and fed only once a day while working 14-16 hours daily; a 13-year-old girl who was turned into a drug addict and raped repeatedly with the purpose of forcing her into prostitution; a beautiful model who under pretenses of a photo shoot at an exotic location was instead required to serve as an escort for rich men; a 40-year-old woman forced to work 14-hour shifts at factories for free; a man who sold his kidney to a black market organ broker and had a surgery abroad to support a child at home; a small boy begging on the streets of a foreign country, whose parents sold him to strangers because they were unable to support him at home. Each story sent shudders through me in its own unique way.

The outcomes of trafficking victims' stories are as diverse as the accounts of how they were lured into trafficking. Some do not survive their trafficking experience, dying in factories, brothels, foreign streets, or in their attempts to escape enslavement. Some are freed by a police raid, escape, or get released with the help of a client and do well upon return home, while others return only to relapse and have their lives go downhill. I also had experiences with female victims of sex trafficking who were re-trafficked again and again. Some victims of trafficking for sexual exploitation are forced into prostitution and then resign themselves to a life in the sex trade, even when they are allowed to leave. Lastly, some victims of trafficking, after years of being abused, themselves turn into abusers, recruiting other unsuspecting victims and supervising the brothels where trafficked women are kept. The discussion of how and why this happens is outside the scope of this article, but to me it felt as if these victims' souls, dignity, and respect for themselves were torn away by the process of trafficking. They either became numb and let go of all moral and ethical restraints, or in some cases acquired a false sense of empowerment by becoming intermediaries in the trafficking process.

Causes of trafficking are diverse and could be viewed through the lenses of domestic or global variables. First, trafficking in human beings is the third most profitable criminal enterprise in the world, trailing behind only illegal trade in drugs and weapons.[3] High profitability increases the attractiveness of this crime, especially as earnings from one trafficked human being, unlike from drugs or weapons, are continual and recurring every time the victim is exploited or sold. Other oft-cited transnational causes of trafficking include porous borders, globalization, regional armed conflicts and instabilities, globalization of transnational criminal syndicates, and the fast

development and accessibility of modern technologies, such as the Internet. On the domestic level, such factors as poverty and economic instability, lack of employment opportunities, presence of organized crime, corrupt government, social disparities, social and cultural prejudices, insufficient criminal recognition of trafficking, and armed conflict all serve as conducive grounds for traffickers.

For purposes of simplification and categorization, it is common to divide countries into three different categories: countries of origin; countries of transit; and countries of destination. The US Department of State follows this subdivision in its annual Trafficking in Persons (TIP) report. The United States, Germany, and United Arab Emirates would generally be categorized as destination countries, i.e., countries where women and children are brought and where forced labor or forced prostitution occur. Belarus, Ukraine, and some South American and Asian countries are generally considered countries of origin, i.e., native countries of trafficking victims, countries where recruitment or kidnapping happens. Some countries could be straddling two or even all three categories. Russia, for instance, is a country of origin, but also to a lesser extent a country of destination for men and women from Central Asian republics and neighboring countries. As a rule, countries where trafficking victims come from are countries with poverty-stricken or transitional economic conditions and countries with porous borders. The former Soviet Union block is an excellent example to that extent. As soon as the Soviet Union collapsed, borders somewhat opened and economic conditions rapidly deteriorated in the early 1990s, and these former Soviet Republics became hot spots for recruiting trafficking victims.

Trafficking is much more widely spread than is understood or believed by many people, and it is not confined to remote parts of the world. Many of us do not realize that the United States is affected by this phenomenon. Yet, it is estimated that over the last decade up to 750,000 women and children have been trafficked into the United States.[4] The US government further estimates that between 14,500 and 17,500 people are trafficked into the country annually. Each year we hear about appalling and ugly cases of modern-day slavery existing right here within our own borders. To give just few examples: In December 2008 a forced farm labor case in south Florida drew the attention of media and political blogosphere. In that case, migrant farm workers from Mexico and Guatemala were chained to a pole, beaten, imprisoned inside trucks, and made to work on tomato farms without or for very little pay.[5] In 2006, several people were arrested in Seattle in connection with their involvement in an international sex-trafficking ring, trafficking women from several Asian countries and shuffling them between brothels in the US. Most of these women paid a fee to a smuggler and then worked as prostitutes to pay off the debt, according to investigators.[6]

North Carolina is not immune from this phenomenon. While I am not aware of any official data analyzing the number of trafficking cases in North Carolina, there are rough and unofficial estimates that are quoted by different organizations that are truly shocking. According to a story run in the summer of 2007 on WSOC Television,[7] the Federal Bureau of Investigation and Charlotte-Mecklenburg Police Department believe that hundreds of foreign-born women are drawn into the Charlotte area every week to be forced into prostitution by deception and violence. A staff attorney for Legal Aid of NC listed North Carolina's growing population and the easy availability of farm work as factors in the increase of local trafficking cases. She was quoted saying "We don't have good statistics on it. But my sense is that it's growing. ... We're seeing more cases."[8] Durham was recently named as a transitional drop off and pick up point in a case featuring women trafficked to the United States from Mexico to work as prostitutes at Baltimore brothels.[9] Several people in the Charlotte area were arrested in connection with suspected sex trafficking at a local massage parlor in the summer of 2008.[10] With the globalizing world economy and popularity of North Carolina with Hispanic laborers, this phenomenon in our state is only likely to increase in the years to come.

What is being done to combat trafficking internationally and domestically? The international community has generally combated trafficking through the scheme of "triple P" standing for Prevention, Protection and Prosecution in its anti-trafficking agenda. This acronym presupposes prevention by education and raising public awareness, protection through the creation of confidential and effective reintegration and rehabilitation systems for victims of trafficking, and prosecution by educating and empowering law enforcement, and toughening criminal standards and penalties for traffickers and intermediaries. Both federal government and state authorities participate in anti-trafficking efforts. The federal government funds various international efforts to combat trafficking. The annual US TIP Report by the Department of State analyzes trends and developments in global human trafficking. On the national level, the Trafficking Victims Protection Act of 2000[11] codifies trafficking and creates a comprehensive framework for criminalizing trafficking, and preventative and protective anti-trafficking activities. Numerous efforts and campaigns are in progress under the auspices of several US agencies to address trafficking. In fiscal year 2007, the federal government commenced 182 investigations, charged 89 persons, and secured 103 convictions in trafficking cases.[12]

On the state level, by the end of 2007, 33 states had passed criminal anti-trafficking legislation. Our state government has joined a number of states recognizing trafficking as a criminal offense by passing Session Law 206-247, which defined trafficking and made it a Class C or Class F felony and Session Law 2007-547, which provided protections for victims of trafficking. In addition to legislative efforts, this growing problem is also addressed by various nongovernmental and charitable organizations, RIPPLE coalition, and academic groups. The task force named RIPPLE, standing for Recognition, Identification, Protection, Prosecution, Liberation, and Empowerment, consists mainly of activists, the public, and the nonprofit sector. It was established in 2004 with its first meeting being held at the NC Attorney General's Office. The group and its individual member-organizations work on training and outreach, including an annual conference on sex trafficking at UNC. However, many are still not cognizant of the problem, and more work in the area of protection and prosecution is needed at the local stage.

During my service at the International Organization of Migration, I glimpsed the darkest corners of the human nature, learning that despite the huge strides made by international authorities and national and local governments to eliminate slavery, the atrocious practice endures and flourishes. Modern forms of slavery go on even stronger; seeping into the safest societies, including the state where we all practice law. The powerful and unsettling anti-trafficking experience taught me humility and

provided me with deep respect for survivors of human trafficking and anti-trafficking activists who inspired this commentary. I am profoundly thankful to have had an opportunity to serve and to learn from my work in the anti-trafficking field. Daily, face-to-face work with trafficking victims, while troubling me profoundly and robbing me of my youthful naiveté, implanted strong compassion for and special insight into perseverance of the human spirit in spite of the most degrading circumstances. I hope that this article will raise awareness about the phenomenon of trafficking in human beings in the North Carolina legal community, as we are faced with this increasing problem. Our profession is rumored to be stressful, so I also hope that this article will allow those attorneys who read it to take a step back, breathe in deeply, and become conscious of how fortunate they are and how inconsequential our stress is when compared to the big picture of life. ■

Olga Vysotskaya is an assistant attorney general at the Tort Claims Section of the NC Department of Justice. Prior to her employment with the state, Olga worked for the International Organization for Migration (IOM), supervising non-governmental organizations and assisting victims of human trafficking. This article was inspired by her work in the anti-trafficking field.

Endnotes

1. US Department of State, Trafficking in Persons Report, 2008. Washington, DC: US Department of State. Office to Monitor and Combat Trafficking in Persons. www.state.gov/g/tip/rls/tiprpt/2008/105376.htm.
2. "The Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children," supplementing the Convention against Transnational Organized Crime, United Nations (Palermo, Italy, 2000).
3. US Department of State. Trafficking in Persons Report, 2004. Washington, DC: US Department of State.
4. Laura Lederer, *Trafficking and Procuration Legislation: A Worldwide Survey* (Washington, DC, The Protection Project, October 1999) (citing the US Department of State).
5. Amy Bennett Williams. "Immokalee family sentenced for slavery; Each Navarrete boss gets 12 years in prison." The News-Press. (December 20, 2008).
6. David Bowermaster. "9 accused of involvement in global sex-trafficking ring." The Seattle Times. (August 11, 2006). http://seattletimes.nwsource.com/html/localnews/2003190697_sexring11m.html
7. "Charlotte Organizations to Battle Human Trafficking." WSOC-TV. (July 25, 2007). www.wsoctv.com/news/13753065/detail.html
8. www.thetimesnews.com/news/trafficking_15824___article.html/human_police.html
9. *Imported Sex Trade* by Julie Bykowicz, Baltimore Sun (October 25, 2008). www.baltimoresun.com/news/traffic/bal-md.trafficking25oct25,0,5525994.story.
10. "Police; two arrested in NC may be sex slaves." Associated Press (July 21, 2008). http://abclocal.go.com/wtvd/story?section=news/local&id=6276974
11. PUBLIC LAW 106-386-OCT. 28, 2000.
12. US Department of State, Trafficking in Persons Report, 2008. Washington, DC, US Department of State.

Back to the Future (cont.)

do not require a court appearance. In 2008, though, the General Assembly's new Program Evaluation Division in one of its first reports lambasted the AOC for delays in implementing the projects, which collectively had received more than $18 million since 2000. NCAWARE, for example, was scheduled for implementation in July 2004, but was not introduced until mid-2008 and then only as a pilot in one county. The report criticized the AOC's means of setting priorities and its failure to involve and listen to the users of the technology, in addition to inadequate reporting and tracking of progress.

In short, while there has been a significant investment in improved court technology, the benefits of up-to-date automation still seem a long way off.

Alternative dispute resolution - The Futures Commission recommended more use of mediation and other forms of alternative dispute resolution, and there definitely has been an upsurge in those programs, but it would be a stretch to say the two are connected. The trend toward alternative dispute resolution was well underway before the commission's report and would have continued regardless of what the commission said. While it is a good development, consistent with the Futures Commission's view of how the court system should operate, the commission cannot claim credit.

Conclusions

The Futures Commission report has had a modest impact on court improvement. The commission generated some ideas which gained traction and led to incremental changes in the court system. Foremost of those is the family court, though the establishment of the State Judicial Council and the introduction of performance standards are significant as well. Additionally, for the last decade the commission's report has helped shape the debate in the legislature over the autonomy due the judicial branch, even if there has yet to be any fundamental change in that regard.

In the end the most important point is that despite the Futures Commission's recommendations the same court structure remains in place. There has been no receptivity to the reorganization of the trial court or to realignment of judicial districts. Predictably, then, the same inefficiencies remain in place and, indeed, continue to worsen. The strict division of workload between district and superior court, and the adherence to terms of court and rotation of judges, combined with the creation of smaller and smaller districts, means that some districts and judges are overworked while others are looking for more to do. When the balkanization of districts is combined with local funding of court operations and limited expansion of pilot programs such as family court and drug court, it brings a real threat to the ideal of a uniform statewide court system. In various measures the North Carolina court system is noticeably less uniform today than it was when the General Court of Justice was first established at the end of the 1960s.

It may be that the Futures Commission's recommendations are not the best answer to those problems of inefficiency and disparity. The commission's proposals are worthy of debate, however, and at a minimum should inform the discussion—thus far avoided—as to the larger structural issues of the court system. ■

Michael Crowell served as executive director of the Futures Commission while at Tharrington Smith, LLP, in Raleigh. He is now on the faculty of the School of Government at UNC.

Endnotes

1. Clyde L. Ball, "A Summary of Court Improvement Efforts, 1955-1963," paper prepared for the North Carolina Courts Commission (Chapel Hill, NC: Institute of Government, the University of North Carolina at Chapel Hill, Oct. 1963), 3.
2. Ball, "Court Improvement Efforts." 4.

An Introduction to HIPAA and Electronically Protected Health Information

By John I. Winn and Peter A. Winn

The Internet has been the greatest boon in history for interpersonal communications, international commerce, and, unfortunately, the perpetration of criminal theft and fraud. Cyber-crooks use the web anonymously to obtain goods, services, and cash while exploiting time-lags in discovery and investigation. In this context, the introduction of large networks of computerized health information has caused the number of individuals with access to patient medical records to explode. While computer networks of medical information provide society with many potential benefits, they also constitute a "mother-lode" of confidential data for identity thieves and other criminals.

As the healthcare industry comes to depend more and more heavily upon electronic data for patient treatment and billing, paper-based information systems are becoming a thing of the past. Medical providers make widespread use of laptops, home-computer links, Smart Phones, Smart Cards, USB flash drives, and PDAs. "E-Prescribing" systems link physicians and others directly to pharmacies. A contemporary doctor's Blackberry typically contains far more patient information than the

locked file cabinets of the past. However, all this healthcare data—ranging from medical diagnosis and treatment codes, to names, addresses, birthdates, Social Security numbers, insurance information, bank and credit card data—has enormous value to identity thieves who have begun to learn how to exploit open networks and Wi-Fi systems. Providers such as doctors and hospitals are increasingly facing the risk of medical data compromise, placing their patients in harm's way, and exposing the providers themselves to an increasing risk of liability.

HIPAA Privacy Rules

Attorneys representing hospitals, physicians, and other healthcare providers, as well as counsel representing an increasingly wide network of companies providing ancillary services, such as insurance payers, medical billers, consultants, and even attorneys specializing in estate law,[1] must become familiar with the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule")[2] issued pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996.[3] Counsel not only need to advise their clients in an increasingly complex and difficult area of the law, but as "business associates" of healthcare providers, payers, and other ancillary entities, attorneys themselves can be subject to the same strict data privacy regulations under HIPAA with respect to any patient information they obtain from their clients.

The Privacy Rules constitute perhaps the most significant, extensive, and detailed attempt by the federal government to protect the privacy of personal information in electronic form. The Rules impose national privacy standards within the context of three administrative areas: (1) standardized codes for transactions involving electronic health information; (2) national security and electronic signature standards for electronic health information; and (3) establishment of national health identifiers. The Rules reflect the new reality that as the healthcare system increasingly relies on electronic information systems to facilitate the efficient use and transmission of personal health information, the dangers of unauthorized disclosure and misuse of that information concomitantly increase. Thus, Congress understood there to be a critical need to implement a uniform system of Privacy Rules to establish a nationwide set of minimum standards for the protection of "electronically protected health information" (EPHI and sometimes also "PHI")[4] for what the HIPAA calls "covered entities."[5] A "covered entity" includes hospitals and other healthcare providers, health insurers, and healthcare clearinghouses.[6]

Healthcare providers include doctors, nurses, therapists, and medical technicians. It also includes hospitals, pharmacists, nursing homes, home health companies, medical equipment providers, and research institutes. A "health plan" is any plan that pays for healthcare, whether public or private, including Medicare, Medicaid, other federal and state programs, private health insurance payers, self-funded plans by employers,[7] and Health Maintenance Organizations (HMOs).[8] The term "health plan" excludes, however, insurance under which benefits for medical care are secondary or incidental to other insurance benefits such as property and casualty insurance; disability insurance; liability insurance, including automobile liability; and workers' compensation or similar insurance plans.[9] Finally the term "healthcare clearinghouses" includes computer data processing companies, billing companies, and reprising companies which process and aggregate computerized health information.[10]

The HIPAA Privacy Rule seeks a pragmatic and utilitarian balance between the need to protect personal health information and the need to disclose personal health information for treatment, payment, public health, research, and other socially beneficial purposes. It is also important to note that HIPAA does not pre-empt the patchwork of existing state confidentiality requirements, but merely provides a uniform federal floor of protection for personal medical information.[11] The Privacy Rules also establish fair information practices with respect to personal health information under which individuals are entitled to receive notice of the uses to which their healthcare information is to be put; the right to access their records to verify their accuracy; the right to consent before secondary disclosure may be made for reasons other than the original limited purposes for which the information was collected; the right to an accounting of all such disclosures; and the right to have their personal information maintained securely.[12]

As a general rule, attorneys whose practice involves the routine use or disclosure of health information or that enter into a written business associate contract with a healthcare entity are in fact "business associates" under HIPAA.[13] Outside counsel providing legal services to hospitals, medical insurers, medical collections agencies, or other covered entities may also fall within the broad definition of "business associates"[14] under HIPAA. Prior to 2009, business associates were merely contractually obligated by client covered entities not to use or disclose EPHI in violation of HIPAA privacy rules.[15] Effective February 2010, however, HIPAA amendments within the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act)[16] expressly mandate that "business associates" must also comply with the same administrative, technical, and physical security standards that protect EPHI within healthcare entities. Also, for the first time, business associates (including attorney business associates) risk the same civil and criminal penalties for privacy violations as previously faced by covered entities alone.[17] It remains unclear at this date whether law firms that fall within the HIPAA definition of business associate will be required to appoint information security officers, develop detailed policies and procedures, or increase physical security of data systems as would be required by healthcare entities.

Also problematic with respect to attorney-client privileges[18] and conflicts of interest[19] between business associates and covered entity clients are amended HIPAA Rules requiring business associates to make their records relating to the use or disclosure of PHI available for inspection by the DHHS.[20] Furthermore, HITECH/HIPAA provisions obligate business associates to terminate business arrangements with covered entities if a business associate discovers the healthcare entity provider has breached privacy obligations under HIPAA.[21] Under HITECH/HIPAA, business associates must report any incident involving "unsecured protected health information"[22] to the US Department of Health and Human Services.

HITECH/HIPAA amendments further require notifications (within 60 days) by covered healthcare entities to individuals whose EPHI has been, or may have been, accessed, acquired, or disclosed in violation of the Privacy Rules.[23] Breaches of EPHI within data systems maintained by business associates must be reported to covered entities.[24]

Breach notifications must include the names of individuals whose EPHI has been compromised.[25] If a data breach involves more than 500 persons, appropriate local media outlets must also be notified[26] and the same information will be posted on the HHS website.[27]

Civil Causes of Action for HIPAA Medical Data Breaches

HIPAA Privacy Rules have long been criticized for not creating a federal private cause of action for individuals who are injured by a violation of the Rules by healthcare entities, or the business associates of covered entities.[28] This was considered particularly troubling because business associates (as opposed to the healthcare entities themselves) were often responsible for many of the abuses of personal health information that led to the enactment of the Rules in the first place. Partially towards these ends, HIPAA/HITECH amendments dramatically increase civil penalties for Privacy Rule violations by entities (and now associates), authorize attorney fees in HIPAA lawsuits by state's attorneys general, and within the next three years[29] provide for mechanisms that grant partial civil recoveries by injured parties from civil penalties or settlements between governments and covered entities (or business associates).[30]

The failure of the HIPAA to create a private federal civil remedy does not necessarily imply that other civil remedies are not available to injured parties for data theft or stolen identities. Under certain circumstances, civil recoveries may be possible under the common law tort of breach of confidentiality,[31] via state identity theft statutes,[32] or the federal Fair Credit Reporting Act (FCRA).[33] Likewise, claims for breach of contract may lie between business associates and covered entities under indemnity provisions of business associate contracts. Downstream users of medical information under contract with covered entities might also claim an implied contractual duty to maintain the confidentiality of personal health information.

Despite recent limiting legislation including the Class Action Reform Act of 2005 (aka Class Action Fairness Act),[34] identity theft victims are more likely to share a jurisdictional "commonality of issues" requirement[35] or suffer consumer losses exceeding the five million dollar threshold. In the case of the HIPAA Privacy Rules, the statute itself does not expressly exclude application of the federal privacy standards to a state common law tort action as negligence *per se* as the Privacy Rule simply clarifies the standard that applies to a previously existing duty under common law.[36]

Best Practices and Due Diligence for EPHI

To ensure the integrity of EPHI, law firms need to implement an effective combination of administrative, physical, and technical safeguards. Access to data should always be carefully limited to the absolute minimum number of persons with a valid need for access. Employees engaged in EPHI related duties must be properly screened, trained, supervised, and disciplined as necessary. Supervising counsel with managerial authority must make reasonable efforts to establish internal policies and procedures that ensure all lawyers and employees in the firm are properly supervised vis-à-vis EPHI.[37] In the event of a resignation, suspension, or termination, managing counsel must be especially diligent to ensure data systems are immediately firewalled to prevent further access.

Representation, joint ventures, or other third party business arrangements[38] between healthcare entities and attorney business associates that involve utilization of EPHI must be based upon a mutual commitment to data privacy, adequate technical or physical safeguards, and realistic systems oversight. This commitment should be carefully memorialized in applicable business associate contracts. IT risk-assessment must always be based upon highest reasonably calculated risk. Pinching pennies with regards to IT security is always a poor business strategy when any significant system compromise yields a "zero" return on investment! There is a wealth of prevention-focused best practices available from the Internet Security Alliance (ISA) (www.isalliance.org) which provides a free 12-step security program for businesses. Similar secure networking information is available from the National Cyber Security Alliance (NCSA), the Chamber of Commerce, and United States Federal Trade Commission.

Other best practices for cyber-security may include some or all of the following measures:

- Continuous development and refinement of IT security policies, procedures, and training to ensure compliance with applicable rules and regulations;[39]
- Testing and auditing of data systems to ensure they are capable of detecting and preventing both external cyber-intrusions (hacking) and internal inappropriate usages;
- Ensuring that all employee IT security training is fully documented;
- Auditing janitorial, waste disposal, and shredding services to ensure compliance with applicable disposal rules.

Conclusion

This has been the most basic of surveys regarding HIPAA and privacy of healthcare data. Attorneys should be diligent and consult HIPAA Regulations whenever they enter into a representational association with a HIPAA-covered entity or business associate of a covered entity. Practitioners and firms engaged in actual business associate status relationships with healthcare entities should carefully review existing contract terms for compliance with HITECH/HIPAA. Additionally, non-client discovery requests involving EPHI from healthcare entities should probably assume that HIPAA's new data privacy standards apply, even if counsel are not otherwise technically business associates under HIPAA.[40]

The legal community should monitor future HIPAA pronouncements regarding any obligation of business associate law firms to meet specific security standards (such as encryption of e-mails), when to report data-breaches, and what specifically constitute attorney-client privileged relationships within HIPAA. Additionally, we hope counsel bear in mind the need to integrate strong preventive security measures into all law firm IT planning. As we grow in our appreciation and anticipation of future infrastructure risks, policies and laws should also evolve to not just resist, but to more effectively prevent and combat identity theft and other cybercrimes. ■

John I. Winn is an associate professor of Business Law at The Harry F. Byrd School of Business and Shenandoah University. He earned his JD from Campbell Law School in 1984 and his LL.M. in 2003 from The Judge Advocate General's School, US Army.

Peter A. Winn is an assistant US attorney and lead affirmative civil enforcement attorney and healthcare fraud coordinator in Seattle, Washington. He earned his M.Phil. from the University of London in 1983, and his JD from Harvard Law School in 1986.

Endnotes

1. *See* Daniel B. Evans, *What Estate Lawyers Need to Know About HIPAA and Protected Health Information*, ABA General Practice and Solo Division, Vol. 2, No. 2, February 2006.
2. 45 C.F.R. § 160 and 45 C.F.R. § 164.
3. Pub. L. 104-191, 110 Stat. 1936 (1996) (as amended).
4. 45 C.F.R. § 160.103.
5. 45 C.F.R. § 160.103(3).
6. 45 C.F.R. §160.103(4).
7. 42 U.S.C. § 1320d(5).
8. 45 C.F.R. § 160.103.
9. *Id.*
10. 42 U.S.C. § 1320d(2); 45 C.F.R. § 160.103.
11. 42 U.S.C. 1320d-7.
12. 42 U.S.C. § 160 and § 164 Subparts A and E (1996).
13. Pub. L 111-5, §13401, American Recovery and Reinvestment Act of 2009, Division A. Title XIII (2009).
14. 45 C.F.R. §160.103.
15. 45 C.F.R. §164.504(e).
16. Pub. L. 111-5, Title XIII, Feb. 17, 2009 (HITECH Act was enacted as part of the American Recovery and Reinvestment Act of 2009 (*See* supra n. 13).
17. *Id.* at. §13404.
18. *See* Gerald E. DeLoss, *HIPAA Requirements For Lawyers - Business Associate Contracts.* (Health Insurance Portability and Accountability Act of 1996), Journal of Deferred Compensation, March 2004.
19. Model Rules of Professional Conduct Rule 1.6 (2002).
20. 45 C.F.R. § 164.504(e), Administrative Data Standards and Related Requirements (2006); *See also United States v. Massachusetts Institute of Technology*, 129 F.3d 681 (1st Cir. 1997)
21. Pub. L. 111-5, §13402s3(h)(1)(A) (2009).
22. *Id.*
23. *Id.*
24. *Id.* §13402.
25. *Id.* §13407(g)(1).
26. *Id.* §13407.
27. *Id.*
28. *See* Robert M. Gellman, *Prescribing Privacy: The Uncertain Role of the Physician in the Protection of Patient Privacy*, 62 N.C. L. REV. 255 (1984); Lawrence O. Gostin, *Health Information Privacy*, 80 CORNELL L. REV. 451 (1995). *But see* G. Michael Harvery, Comment, *Confidentiality: A Measured Response to the Failure of Privacy*, 140 U. PA. L. REV. 2385 (1992).
29. Pub. L. 111-5 §13407(g)(1) (2009).
30. *See Notice: Department of Health and Human Services, Office of Inspector General, Publication of OIG's Guidelines for Evaluating State False Claims Acts*, Federal Register, Vol. 71, No. 161, August 21, 2006, pages 48552-48554.
31. *See* Peter A. Winn, *Confidentiality in Cyberspace: The HIPAA Privacy Rules and the Common Law*, Rutgers Law Journal, Spring 2002.
32. See NCGS §75-60-65 (as amended 2005) and NCGS §1 539.2C which authorizes civil remedies, including trebled damages, for willful violations of NCGS §75-60-65.
33. 15 U.S.C. § 1681.
34. Class Action Fairness Act Public Law 109-2, 119 Stat. 4 (2005).
35. *See Class Action Lawsuits, Litigation, a Layman's guide*, Legal-Actions.com, February 9, 2009, available online at www.legal-actions.com/index2.php?option=com_content&do_pdf=1&id=24 (last accessed 2 April 2009).
36. *See* Prosser & Keeton § 36.221 and Caroline Forell, *The Statutory Duty Action in Tort: A Statutory/Common Law Hybrid*, 23 Indiana Law Review 781, 782 (1990).
37. *See* NC Rules of Professional Conduct 5.1(a).
38. *See also* NC Rules of Professional Conduct Rule 5.7 (Responsibilities Regarding Law-Related Services).
39. Another excellent online source in this area is The Medical Identity Theft Information Page at www.worldprivacyforum.org/medicalidentitytheft.html (last accessed March 15, 2009).
40. *See* Judith A. Langer, *The HIPAA Pivacy Rules: Disclosures of Protected Health Information in Legal Proceedings*, Wisconsin Lawyer, Vol. 78, No. 4 (2005).

Promoting Thriving in the Law: A New Approach to Work-Life Balance

By Sean Doyle

What do people mean when they talk about "work-life balance"? We know it is something we want. We are told that organizations that allow for greater balance have lower turnover and happier employees. But what are we really looking for?

Dave Cutler/Images.com

This question is particularly relevant for lawyers. Dissatisfaction within the legal profession is well documented. Despite statistics showing attorneys to be the highest paid profession, lawyers routinely score among the lowest in job satisfaction, and among the highest in pessimism, depression, and divorce. Lawyers are also at a greater risk than the general population for heart disease, alcoholism, and illegal drug usage and suffer from major depressive disorder at a rate 3.6 times higher than employed people generally. In 2003, the North Carolina Bar Association reported that the percentage of North Carolina lawyers using anxiety or depression medication rose from 3% in 1990-91 to almost 17% in 2002-03.

Research within law schools has had similar findings. Although there is little difference between beginning law students and the general population or students in other professional fields, symptoms of anxiety, depression, hostility, and paranoia increase over the second and third years of school. What is striking is that hard work does not seem to be the cause of these signs of mental strain. Law students exhibit poorer mental health than medical students, who are also involved in a rigorous professional program.

As a result, lawyers are increasingly leaving large law firms, or departing the practice of law altogether. Recent surveys report that 78% of lawyers leave large law firms within six years. Forty percent leave within four years. By some estimates, it costs a firm roughly $350,000 in actual costs and "friction-losses" to replace a fourth-year associate. The costs are significantly higher when it is your top rainmaker who leaves, lured by higher pay.

Yet the practice of law provides numerous opportunities for attorneys to engage their strengths and interests in ways that can lead to happiness and fulfillment. Lawyers are bright, accomplished problem solvers. Given the right direction, most can use these attributes to be happy, complete, and successful in their legal practice and home lives. So what can be done to promote engagement, success, and overall well-being among lawyers?

The Traditional Approach to Work-Life Balance

When organizations adopt work-life balance programs, they tend to focus on our physical needs as workers. Lawyers work long hours, require high levels of concentration, and often have tight deadlines. These types of stressors can lead to emotional exhaustion, disengagement from work, and a bad mood that can carry over into one's home life. To address these issues, conscientious companies may adopt flex-time or work from home options.

Maybe the drycleaner comes by your office so you do not have to leave your desk. Let's face it: perks like a babysitting service for late nights serve a very real need. However, while these programs address the physical needs of lawyers, they do little to make one feel connected to his or her job, or increase enjoyment while having to work those longer hours. If another opportunity comes along that has more pay, better hours, or more flexibility—even if it is outside of the law—we could lose some of our star performers or top rainmakers.

Why Not Just Pay Them More?

While salaries do need to be competitive to attract and retain good attorneys, paying lawyers more will not increase their commitment to your organization or the profession, or increase their satisfaction with life. Wealth has been a poor predictor of life and job satisfaction. There is even some evidence that money may interfere with people's ability to enjoy life's simple pleasures.

Lawyers are not alone. In a workplace study of over five million employees across multiple industries, the Gallup organization found that approximately 70% of workers were either disengaged or actively disengaged in their jobs. The 30% that were engaged were more cooperative, efficient, and punctual, missed fewer work days, and more likely to find creative solutions to problems.

Is It Really Work-Life "Balance"?

The fact that "work-life balance" has been framed in this particular dichotomy is quite telling: there is "work" and then there is "life." It is as if work is not a part of our "real" lives. But when we leave a part of ourselves at home, our burnout, stress, and work dissatisfaction all increase. What's ironic is that when we are unhappy or overstressed at work, it interferes with our ability to enjoy ourselves outside of the office. Often we feel guilty about taking a vacation because there is too much work back at the office. Yet when we are in the office physically, mentally we are back at home.

The good news is that through research in positive psychology, we know what typically makes people happy. We know what causes people to feel engaged and committed in their jobs and fulfilled in their lives. There are things that employers and individuals can do to foster greater well-being. Positive psychology is the scientific study of how people and organizations thrive and succeed. It examines why some people cannot wait to get to work every day, and whether there are ways to promote greater engagement and sense of purpose in work. It looks at how we balance life's competing demands, and demonstrates ways to utilize our strengths even in moments of tedium or hardship. In short, positive psychology takes seriously the study of those things that make life worth living. Psychologists have long theorized about notions of individual and organizational thriving. However, psychologists have only recently begun to study these concepts empirically, and to measure and test ways to promote long-term human flourishing.

Ultimately, very few people are going to find a true "balance" between work and life. The law demands long hours of concentrated attention. It is going to take up a great deal of time and energy. But we can implement strategies to make the work more enjoyable and engaging. Likewise, there are things we can do to increase our satisfaction away from the office, allowing us greater peace of mind and more commitment while at work. This essay addresses two such strategies: capitalizing on strengths and managing moments.

Capitalizing on Strengths

Researchers have demonstrated that one of the most effective ways to foster a sense of happiness, satisfaction, and commitment is through increased "engagement" or "flow." Most of us have had the experience of being so involved in what we are doing that we lose all sense of time, block out distractions, and forget to even to stop and eat. An activity that produces this "flow" experience is so gratifying that people are willing to do it for its own sake, even if difficult or dangerous. People in flow tend to be very productive, as well as very satisfied.

An essential element for achieving this "flow" state is identifying our strengths and finding ways to utilize them in creative and innovative ways. We all have certain strengths that energize us when we use them. Yet research done within hundreds of companies concluded that less than 20% of the workforce have opportunities to do what they do best every day.

There are numerous tools that people can use to help identify their strengths. An effective questionnaire is available online at no cost at www.viasurvey.org. Unlike the other tools that were designed with their own marketing in mind, the Values in Action (VIA) Inventory was developed by psychologists researching human flourishing. Rather than focus on selling an assessment tool, the goal in creating the VIA was the validity of the tool.

After completing the VIA questionnaire, the tool will identify your top five signature strengths. In reviewing survey results with people, most tend to glance at their top five, and then immediately scroll to the bottom to see their "weaknesses." In understanding and using the results, it is important to understand that the VIA does not say anything about one's weaknesses. Rather, the VIA emphasizes those particular strengths and attributes that increase and amplify the zest and energy of the individual lawyer. These may include love of learning, compassion, playfulness, or creativity. The energizing strengths will be different for each person. So while an extremely successful and competent lawyer may have mastered the strengths of self-control, prudence, and judgment, those attributes might not appear among his or her top strengths. This is why it is not always effective to have someone else identify our strengths. Your supervisor might recognize your good judgment without realizing that there are other attributes that make you feel more alive and committed to your job.

After you have identified your energy-giving strengths, the next step is to find opportunities at work and at home to use these strengths in creative ways. Someone with the strength of "persistence" or "creativity" might find more enjoyment at work when given the chance to work on difficult projects where the regulatory rules are not particularly clear. If you have to deliver uncomfortable or unpopular advice, an attorney who scored high in "bravery" might feel more engaged and energized by approaching the client. If "compassion" or "friendship" are among your higher strengths, you will likely leave work each night with a greater sense of purpose when given opportunities to connect with clients on matters about which the client has taken a personal interest.

Finding creative ways to use our strengths outside of the office also enables us to enjoy life more. One lawyer I know who is nearing retirement finds greater enjoyment at work and home life by using his strength of "prudence" to organize functions for his faith community. While using a strength with which he is comfortable and at ease, he is able to both give back to the community and connect directly with others.

The key is that the use of your strengths be creative and personal. No one can prescribe easy-to-follow steps that can be applied generically with every individual. While coaches and companies can guide you, ultimately you need to determine specific ways of using your

specific strengths. By so doing, you will experience greater engagement both in the office and away from it.

Managing Moments

To help promote life-work balance and counteract stress, a company or law firm would want to encourage its attorneys in the art and skill of managing moments. We have thousands of moments every day, both at work and at home. Any one of them can become a life-changing trigger for another person, helping them feel acknowledged, valued, and part of something bigger. It only takes a moment to connect with another person. In the office, supervisors should take a moment to acknowledge other's efforts in performance reviews, say "thank you" for a job well done, and strive to do what is right by employees. Yet when asked, only a fraction of people have received praise for their good work within the last week. This only takes a moment. One attorney I work with posts a note on his computer that says "catch people doing something good." His paralegals report that they feel appreciated and that their work is valued. In the end, they will be more likely to put in extra time when needed and will be less likely to leave the firm.

As with capitalizing on strengths, lawyers should also be encouraged to manage moments in their personal lives. Attorneys are busy and have much competing for their attention. Despite this, lawyers can have control over how they handle the moments of their lives. After working all week, a lawyer might feel frustrated that time on the weekend must be spent running errands and doing the chores required to maintain life. They might rather spend those hours relaxing with family. However, the time doing these chores can become positive experiences for lawyer, family, and friends. The employee should be encouraged to pay attention to what is going on around him and ask where, in that moment, is a chance to play. During meals, he can make the baked chicken dance. Morning pancakes can create and become smiling faces with well-placed blueberries. Waking the children up in the morning is an opportunity to shake their arms and legs and sing the "hokey pokey."

These are a few simple examples of ways to use the time that we have. Dancing chickens and singing are not the answer for everyone, but each person can learn to manage his or her moments from a point of individual energy-giving strengths. By so doing, the lawyer will feel more alive at work and at home, and will bring more joy to his or her interactions with co-workers, neighbors, and family. It will also help the employee feel more balanced with life in general, and less resentful about the long hours they do have to spend in the office.

Been There, Done That

Many organizations have experimented unsuccessfully with work-life balance programs and other management fads. To have lasting effect, the strategies proposed herein should not be approached as some one-time, soft, touchy-feely program. To be effective, these strategies require hard work, commitment, and continued follow-up. It takes work to learn to play the piano, become a successful lawyer, or be a good golfer or parent. Likewise, it takes work to balance life's competing demands, and to move from just "managing" to thriving. It takes hard, consistent (but fun) work on the part of the individual lawyer. But to have a long term effect, it helps to have the encouragement, support, and continued follow-up by the company or firm.

Conclusion

If companies and law firms want to retain their top talent and encourage people to be happy and productive, they should continue to address the physical demands of balancing work and the rest of life. This might include flex-time and work from home options. However, companies and firms should not stop there. Organizations that find ways to encourage their lawyers and staff to capitalize upon their individual strengths, and manage moments from those strengths, can expect meaningful increases in employee engagement, energy, and effectiveness. ■

John A. "Sean" Doyle, JD, MAPP, is a lawyer with LabCorp and a psychologist. He writes and speaks on employee engagement issues and works with individuals and organizations on leadership development, strengths-based coaching, and finding greater meaning and flow in life. For more information please see http://seandoyle.wordpress.com/ or contact Sean directly at JohnSeanDoyle@aol.com.

References

Beck, C. J. A., Sales, B. D., & Benjamin, C. A. H. (1995). *Lawyer Distress: Alcohol Related Problems and Other Psychological Concerns among a Sample of Practicing Lawyers.* Journal of Law and Health 10, 1-94.

Benjamin, G. A. H., Kaszniak, A., Sales, B., & Shanfield, S. B. (1986). *The Role of Legal Education in Producing Psychological Distress among Law Students and Lawyers.* American Bar Foundation Research Journal, 225-252.

Clifton, D. O., & Harter, J. K. (2003). *Investing in Strengths.* In K. S. Cameron, J. E. Dutton, & R. E. Quinn (Eds.), *Positive Organizational Scholarship: Foundations of a New Discipline* (pp. 111-121). San Francisco: Berrett-Koehler.

Csikszentmihalyi, M. (1991) *Flow: The Psychology of Optimal Experience.* New York: Harper Perennial.

Dammeyer, M. M., & Nunez (1999). *Anxiety and Depression among Law Students: Current Knowledge and Future Directions,* Law and Human Behavior 23, 55-73.

Eaton W. W., Anthony J. C., Mandel W., & Garrison R. (1990). *Occupations and the Prevalence of Major Depressive Disorder,* Journal of Occupational Medicine. 32, 1079-1087.

Ford, M. T., Heinen, B. A., and Langkamer, K. L. (2007) *Work and Family Satisfaction and Conflict: A Meta-Analysis of Cross-Domain Relations,* Journal of Applied Psychology. 92: 1. pp. 57-80.

Graves, L. M., Ohlott, P. J., and Rudermann, M. N. (2007) *Commitment to Family Roles: Effects on Mangers' Attitudes and Performance,* Journal of Applied Psychology. 92: 1. pp. 44-46.

Harter, J. K., Schmidt, F. L., and Keyes, C. L. M. (2003) *Well-Being in the Workplace and its Relationship to Business Outcomes: A Review of the Gallup Studies.* In Keyes, C. L. M., & Haidt, J. (Eds.), *Flourishing: The Positive Person and the Good Life* (p.205-224), American Psychological Association.

Hughes, J., and Bozionelos, N. (2007) *Work-Life Balance as Source of Job Dissatisfaction and Withdrawal Attitudes: An Exploratory Study on the Views of Male Workers,* Personnel Review 36: 1 pp. 145-154.

Morrison, M. (2007) *The Other Side of the Card: Where Your Authentic Leadership Story Begins,* McGraw-Hill: New York.

National Institute to Enhance Leadership and Law Practice (2003, October 23). *State of the Profession and Quality of Life Survey,* North Carolina Chief Justice's Commission on Professionalism.

O'Grady, C. (2006). *Cognitive Optimism and Professional Pessimism in the Large-Firm Practice of Law: The Optimistic Associate,* Psychology and Law Review. 23.

Peterson, C. (2006). *A Primer in Positive Psychology,* Oxford University Press: New York.

Peterson, C., Park, N., Hall, N., & Seligman, M. E. P. (in press). *Zest and Work,* Journal of Organizational Behavior.

Peterson, C. and Seligman, M.E.P., (2004) *Character Strengths and Virtues: A Handbook of Classification,* Oxford University Press: New York.

Richardson, D. (2006, September). *Developing Your "Superkeepers" :The Key to Cultivating High-Potential Legal Leadership,* Report to Legal Management, Altman Weil, Inc. Retrieved June 21, 2007 from www.altmanweil.com/dir_docs/resource/f44d9d5d-106a-4851-804d-4835e4ac55b8_document.pdf

Seligman, M. E. P., Verkuil, P., & Kang, T. H. (2001). *Why Lawyers are Unhappy,* Cardozo Law Review 23, 33. Yeshiva University.

Seligman, M. E. P. (2002). *Authentic Happiness,* New York: Free Press.

Shanfield, S. B., & Benjamin, G. A. H. (1985). *Psychiatric Distress in Law Students,* Journal of Legal Education, 35, 65-75.

Teuchmann, K., Totterdell, P., and Parker, S. (1999) *Rushed, Unhappy, and Drained: An Experience Sampling Study of Relations between Time Pressure, Perceived Control, Mood, and Emotional Exhaustion in a Group of Accountants,* Journal of Occupational Health Psychology. 4: 1 pp. 37-54.

We want your fiction!

Historical Fiction *Romance*
International Espionage
Humor *Science Fiction*

Sixth Annual Fiction Writing Competition

The Publications Committee of the *Journal* is pleased to announce that it will sponsor the Sixth Annual Fiction Writing Competition in accordance with the rules set forth below. The purposes of the competition are to enhance interest in the *Journal*, to encourage writing excellence by members of the bar, and to provide an innovative vehicle for the illustration of the life and work of lawyers. If you have any questions about the contest, please contact Jennifer Duncan, Director of Communications, North Carolina State Bar, 6568 Towles Rd., Wilmington, NC, 28409; ncbar@bellsouth.net; 910.397-0353.

Rules for Annual Fiction Writing Competition

The following rules will govern the writing competition sponsored by the Publications Committee of the *Journal*:

1. The competition is open to any member in good standing of the North Carolina State Bar, except current members of the Publications Committee. Authors may collaborate, but only one submission from each member will be considered.

2. Subject to the following criteria, ***the story may be on any fictional topic and may be in any form*** (humorous, anecdotal, mystery, science fiction, etc.—***the subject matter need not be law related***). Among the criteria the committee will consider in judging the articles submitted are: quality of writing; creativity; extent to which the article comports with the established reputation of the *Journal*; and adherence to specified limitations on length and other competition requirements. The committee will not consider any article that, in the sole judgment of the committee, contains matter that is libelous or violates accepted community standards of good taste and decency.

3. All articles submitted to the competition become property of the North Carolina State Bar and, by submitting the article, the author warrants that all persons and events contained in the article are fictitious, that any similarity to actual persons or events is purely coincidental, and that the article has not been previously published.

4. ***Articles should not be more than 5,000 words in length*** and should be submitted in an electronic format as either a text document or a Microsoft Word document.

5. Articles will be judged without knowledge of the identity of the author's name. Each submission should include the author's State Bar ID number, placed only on a separate cover sheet along with the name of the story.

6. All submissions must be received in proper form prior to the close of business on July 1, 2009. Submissions received after that date and time will not be considered. Please direct all submissions to: Fiction Writing Competition, Jennifer Duncan, 6568 Towles Rd., Wilmington, NC, 28409; ncbar@bellsouth.net.

7. Depending on the number of submissions, the Publications Committee may elect to solicit outside assistance in reviewing the articles. The final decision, however, will be made by majority vote of the committee. Contestants will be advised of the results of the competition. Honorable mentions may be announced.

8. The winning article, if any, will be published. The committee reserves the right to edit articles and to select no winner and to publish no article from among those submitted if the submissions are deemed by the committee not to be of notable quality.

Deadline Extended—July 1, 2009

Reading Literature in Law School and Beyond

By Patricia L. Bryan

"Books are the quietest and most constant of friends; they are the most accessible and wisest of counselors, and the most patient of teachers."

—Charles W. Eliot

I taught my first seminar in Law and Literature almost 20 years ago now, in the fall of 1990. I had been at UNC Law School for eight years by then, and I had always taught tax courses—Federal Income Tax, Corporate Tax, and Partnership Tax—so it was a dramatic new direction for me. I still teach tax, and I always enjoy those classes, but the Law and Literature seminars, which I've taught every year since 1990, have proven to be uniquely rewarding and enjoyable for me and for my students.

I've often thought that lawyers in practice could also benefit, personally and professionally, from reading and discussing works of literature with their peers and colleagues. I was reminded of this most recently last October, when I was a co-moderator at a retreat sponsored by the North Carolina Center for Law and the Humanities. A group of 22 lawyers, judges, and law students came together for three days to talk about selections drawn from various branches of the humanities. Classics by philosophers and political theorists were intermixed with poems by Billy Collins, W.H. Auden and T.S. Eliot; and short stories by Ursula K. Le Guin, Susan Glaspell, and Leo Tolstoy. Discussions were spirited, focusing on broad issues of justice and morality, and on values and ideals of our profession. One evening, we shared personal recollections of lawyers who best represented those ideals, and we were encouraged to reflect on our own journey and goals for the future.

The energy of our dialogues, and the sense of community among participants, reminded me of my Law and Literature seminars. In my experience, those students are always enthusiastic and eager to respond in ways that are unmatched in other classes. Perhaps they're more willing to speak up in the seminar because I've said that any interpretation based on a reading of the text is legitimate and worth expressing; they know their answers won't be judged right or wrong. But their engagement is also due to the literary texts, which spark their emotions, stimulate their imaginations, and invite personal reflection. The seminar offers opportunities for conversations that are unusual in law school.

Often, as law students learn the rigors of legal analysis—how to "think like a lawyer" and advocate for a client—they're urged to put aside their own feelings, and even their moral convictions. But suspending emotions and personal judgments can lead to an increasingly narrow intellectual focus and gradual alienation from friends and family, and from past experiences.[1] As others have noted in articles and books about the legal profession, the habit of continued repression, when taken to extremes, can be maladaptive and dangerous. Lawyers can develop a sense of moral disengagement, ignoring significant ethical ambiguities that arise in practice. They can lose the ability, and the incentive, to talk about ethical and moral questions with their peers, ignoring their doubts and becoming more isolated in their work. And the very detachment and emotional distance that might be beneficial at work can be destructive if carried outside of the office, making personal relationships more difficult to form and sustain.[2]

Reading and discussing literature reminds law students that emotional engagement and self-reflection are crucial elements for continued moral development; that intuition and empathy can inform, rather than disable, our ability to make the right decisions. In my Law and Literature seminar, we discuss books that typically involve specific legal issues, but also provoke questions that go beyond particular doctrines, challenging students to consider the fairness and adequacy of the legal process and the justice and morality of the results.

We talk about the characters—the contexts in which they live, their relationships, and their motivations—and how an empathic understanding of other people can improve our skills as counselors and advocates while also making us wiser and more effective members of our society. As we read about fictional lawyers, we consider the specific ethical problems they face, as well as broader professional concerns. Moral dilemmas of characters in the books inspire reflection, both shared and private, on personal values and aspirations. A quote from Ursula K. Le Guin is a favorite of mine: "We read books to find out who we are. What other people, real or imaginary, do and think and feel…is an essential guide to our understanding of what we ourselves are and may become."[3]

My inspiration to teach the seminar came in the spring of 1990 from a book given to me by my close friend Judith Wegner, then dean of the law school. Perhaps she picked up on my desire, not yet articulated to myself, for a change in my professional life. She knew that I was an avid reader, that books, especially classic novels and contemporary fiction, had always been a great source of pleasure and relaxation for me. Ever since law school, though, I had kept my love of literature separate from my professional life; I read novels at home, but I spent my time at the office with the Internal Revenue Code.

Dean Wegner gave me *The Call of Stories: Teaching and the Moral Imagination* by Robert Coles, a psychiatrist and educator. Coles writes movingly about his experiences talking to high school and college students, using classic works of literature to encourage them to contemplate and discuss difficult personal issues. Coles assigned fiction to medical students at Harvard, suggesting that they should consider their patients from a more humanistic perspective, appreciating their life stories as well as their presenting symptoms. And he went on to teach a course to law students, entitled "Dickens and the Law," with conversations focused on legal issues and the legal protagonists in *Bleak House*, *Great Expectations*, and *A Tale of Two Cities*. His ideas fascinated me from a pedagogical standpoint, and also from a more selfish perspective, as I pondered the idea that I might be able to combine my love of literature with my work.

In 1989, "Law and Literature" was still relatively new as a serious subject for scholarship and for teaching. Some scholars talk about a "Law and Literature movement" beginning in the early 1980s, with the next ten years seeing a rapid increase in the number of articles and books in the area.

But the connection between law and literature can be traced back much earlier than that. In the early years of the American legal profession, lawyers were the intellectual, cultural, and political leaders of the society, and an understanding of the law was thought to be dependent on an education in other fields of knowledge. Broad reading of the greatest works of literature and philosophy was essential in order to comprehend the universal truths underlying republican ideology, and the best courtroom lawyers peppered their orations with allusions to classic texts as a way to reference, and justify, their ideas.[4]

By the end of the 19th century, though, perceptions of the law and of lawyers had changed. The practice of law grew more specialized, and more emphasis was placed on technical expertise, with practitioners focusing on statutes and judicial precedents. In view of the rising demand for entrance to the bar, educational requirements for admission were lowered; therefore, new attorneys lacked the broad classical education of their predecessors. As the society became more complex, requiring new kinds of regulation, the law itself was seen by many in a different light, as designed and interpreted to protect the vested interests of those in power rather than to reflect universal truths and shared moral values.[5]

Law schools reinforced the notion of law as an autonomous discipline. Learning the law was said to depend upon a scientific approach, with students reading and dissecting judicial opinions and statutory texts. Legal education, designed more as a trade school than as an academic endeavor, discouraged input from the humanities and social science.

During the first half of the 20th century, there were only occasional references to the connection between law and literature. In 1908, John Wigmore, then the dean of Northwestern Law School, suggested that reading novels could be important to a practitioner, fulfilling his "general duty as a cultivated man," as well as the "special professional duty to be familiar with those features of his profession which have been taken up into general thought and literature."[6] Wigmore came up with a list of 100 legal novels, noting that lawyers could also learn necessary lessons about people and human nature from fiction, "the gallery of life's portraits."[7]

Almost two decades later, Justice Benjamin Cardozo, then on the New York Court of Appeals, published an essay in the *Yale Law Review* entitled *Law and Literature*. He emphasized how much lawyers could learn stylistically from the great literary authors and their effective use of language, persuasive techniques, structure, and rhetorical devices. But, in Cardozo's mind, literature offered more to attorneys than education in style. To do their work well, lawyers and judges sometimes had to rely upon their understanding of other people and a personal sense of morality. Literature, by encouraging imagination, empathy, and introspection, could aid in the development of those crucial strengths.[8]

By the second half of the 20th century, advocates for change in the law school curriculum were more vocal, urging less isolation from other academic fields, and they began to realize success. Economics made the first inroads, and new studies of non-market behavior and increasing empirical work provided a different perspective to traditional courses such as criminal law, torts, and contracts. By the 1970s, scholars in Critical Legal Studies were citing philosophers and literary theorists to explain their doubts about the subjectivity of legal interpretations. And legal educators and scholars were exploring the connection between law and literature.

In 1989, a law review article, entitled *Law and Literature: An Unnecessarily Suspect Class in the Liberal Arts Component of the Law School Curriculum*, described this evolution, and reported that 38 schools, or almost 30% of the 135 law schools responding to a survey, were offering a course under the general heading of Law and Literature. When the survey was repeated in 1996, the number had more than doubled, with 84 schools offering the

Summer Reading List

By Nancy Olson

Add to the pleasure of your summer relaxation with this diverse list of recommended reading:

British author William Boyd is high on my list of favorite novelists these days. I first read his *Any Human Heart*, the "journal" of an idealistic but flawed writer. He records his sexual explorations and his marital tribulations and his valiant service in two wars. His meetings with the Duke and Duchess of Windsor and other royalty are entertaining and humorous and provide a clear picture of the snobbery and genteel brutality of the British social system. Immensely enjoyable.

Boyd grew up in in Africa, and some of his best work is the result. *A Good Man In Africa* presents a middle-aged, overweight, bumbling British diplomat, Morgan Leafy, who serves in Africa but has no understanding of the country or the natives. His attempts to solve problems created by his incompetence create sympathy but also are laugh-out-loud funny. There is a very good movie of the same title made from this novel.

Boyd's latest book, *Restless*, while very different from his earlier work, is a brilliantly plotted and compelling literary spy thriller. An elderly woman living quietly in the English countryside under an assumed name senses that she's being watched and we learn from a journal she gives to her daughter of her highly dangerous work in a secret propaganda unit whose mission is to coax America into World War II. This knowledge draws her daughter into a dangerous game as she seeks her mother's betrayer.

Old Filth, by Jane Gardam, is the fascinating story of a judge reflecting on his life as a failed London attorney and later successful career as a judge in Hong Kong. The title is the respectable nickname given him by his colleagues and is the acronym for "Failed in London, Try Hong Kong." As a child he is sent from Malaysia to Wales to cruel foster parents. His experiences before he attends school and is adopted by a kindly English family affect him profoundly. The author wastes no words in this beautifully written novel.

If you're a fan of adventure writers like Jack London and Jules Verne, you will enjoy the short stories in *Tierra del Fuego*, written by Chilean writer Francisco Coloane (translated by Howard Curtis). They take place in the extreme reaches of South America and all the stories, like Patrick O'Brian's seafaring stories, are exciting and psychologically satisfying.

The Lost City of Z is a riveting true story of the great British explorer, Sir Percy Fawcett, who in 1925 disappeared in the Amazon jungle with his son and a friend in search of the lost city of El Dorado, the "City of Gold," an ancient kingdom of riches. Many others disappeared in their attempts to find what happened to the Fawcett expedition, victims of the hostile natives and the many other dangers of the jungle. Author David Grann also makes the attempt and may have come closer to solving the mystery than any other. This is fascinating reading!

Virginia Judge Martin Clark's third novel, *Legal Limit*, is a lively, suspenseful look into the legal system which asks, "What is lawful and what is just?" It is compelling reading from the first page to the last. Law student Mason Hunt is an innocent witness to his older brother's drunken killing of a rival. He helps cover up the murder and this comes back to haunt him when he returns home to be the town's prosecutor. Clark's great skill is creating character and description of life in a small community.

To lighten up your reading, try Pete McCarthy's nonfiction *McCarthy's Bar: A Journey of Discovery in Ireland*, which chronicles his attempt to drink in every pub named "McCarthy" in Western and Southern Ireland. We get a wonderful portrait of the landscape and people of Ireland, including the author's relatives (his mother is Irish), as the author travels the back roads and meets the quirky characters along the way. This is another book that made me laugh out loud.

If you want more, here's my short list:

Shadow of the Wind, Carlos Ruiz Zafon (a literary thriller set in 1945 Barcelona);

Out Stealing Horses, Per Petterson (man seeking solitude on the coast of Norway);

Metzger's Dog, Thomas Perry (funniest hard-boil mystery I've ever read);

Stoner, John Williams (farm boy goes to agriculture college and falls in love with literature);

Tokyo Fiancee, Amelie Nothomb (an elegantly written love story between a Belgium girl and a Japanese boy);

Unaccustomed Earth, Jhumpa Lahiri (beautiful stories of Bengali families living in the US);

Being Caribou, Karsten Heuer (a couple spends their honeymoon tracking caribou for five months);

Asta In the Wings, Jan Elizabeth Watson (two children locked up by their crazy mother see the outside world for the first time);

The Joys of Motherhood, Buchi Emecheta (raising children in poverty in Nigeria brings little joy). ■

Nancy Olson was born and raised in Virginia. She moved to Raleigh in 1981 and started Quail Ridge Books & Music in 1984. She won three major awards in 2001, including Publishers Weekly Bookseller of the Year. She was inducted into the Raleigh Hall of Fame in 2007 "for putting North Carolina on the national literary map." Visit Quail Ridge Books at www.quailridgebooks.com.

course.[10] I'm sure the total would be even higher today.

The assignments and goals of these courses widely vary. Some classes include judicial opinions as readings, with students considering how writing style and rhetorical choices can engage the reader, persuading even when authority under the law is unclear. Sometimes assignments include articles

applying literary theories to legal analysis, considering whether any text can have objective or permanent meaning.

Most Law and Literature courses, though, assign works of fiction, and that's the path I've followed. I've chosen novels, short stories, and plays for my students to read, often taking suggestions from members of the class. Over the years, I've included many well-known classics which would make any "top ten" list of works with legal themes, such as *Billy Budd*, *The Merchant of Venice*, *The Stranger*, and *The Trial*. I've also assigned books by more contemporary authors, including Russell Banks, Margaret Atwood, Toni Morrison, and John Irving, and shorter works by Susan Glaspell and Katherine Anne Porter. We've read works that portray racial and ethnic prejudice, take place in other countries or unfamiliar cultures, and relate to significant historical and political events. Many of the works include lawyers both as protagonists and as minor characters, and almost all involve some aspect of the law and the legal process.

One of my goals reflects the point made years ago by Justice Cardozo: I hope that exposure to the elements of style on display in great literary works will help students become more effective writers and more careful readers. We focus on narrative structure, images, and metaphors, and we consider ambiguities and nuance. But the broader issues are the ones that primarily engage the students and encourage their active participation.

Frequently, the last work we read is *The Remains of the Day*, a novel by Kazuo Ishiguro that is only tangentially about the law. The protagonist of the story is an English butler in the mid-20th century, at the end of his career and looking back on the years he spent in the service of his master. The butler sought his rewards in his work, devoting himself to those responsibilities. And yet the attributes he so carefully cultivated for professional success—deference, detachment, and moral neutrality—have also led to personal isolation and a sense of moral failure. In class, we discuss his inability to engage with other people, and the opportunities for interaction that he ignored. We consider how a professional, whether a butler or a lawyer, might define the role of service to another in order to avoid such a sad ending.[11]

The butler suffered from the lack of meaningful connection: to his colleagues, his family, and his master as well as to a deeper sense of his own values. Law students and lawyers, who are encouraged to maintain an impersonal stance and an emotional distance in their work, can be in danger of heading toward that same fate. They should welcome, and search out, occasions for self-reflection, emotional engagement, and meaningful conversations with colleagues. Reading and discussing works of literature invites us to join with others, and to look within ourselves, as we strive to lead lives of moral purpose and personal fulfillment.

I have to admit to one other goal for my students in Law and Literature: that they leave with a renewed appreciation of the pure pleasure of reading a good book. Many of them tell me that they've enjoyed reading fiction in the past, but just haven't had time to pursue that hobby during law school. I know, of course, that they're not likely to have more free time once they enter the bar. And so, while I urge them to think about the professional benefits, I also want them to remember that reading can provide necessary rest and rehabilitation, that it can be (in the words of W. Somerset Maugham), "a refuge from almost all the miseries of life." As lawyers face the increasing demands and stress of law practice, they would do well to remember that literature, whether read alone or with others, can be an enduring source of reward and satisfaction.

Some of the works I've included in my Law and Literature seminar: *Antigone* (Sophocles); *Bartleby the Scrivener* (Herman Melville); *Beloved* (Toni Morrison); *Billy Budd* (Herman Melville); *The Bluest Eye* (Toni Morrison); *The Cider House Rules* (John Irving); *The Death of Ivan Ilych* (Leo Tolstoy); *The Handmaid's Tale* (Margaret Atwood); *Judgment at Nuremberg* (play version by Abby Mann); *A Jury of Her Peers* by Susan Glaspell; *Justice is Blind* (Thomas Wolfe); *A Lesson Before Dying* (Ernest J. Gaines); *A Man for All Seasons* (Robert Bolt); *Master Butchers' Singing Club* (Louise Erdrich); *The Merchant of Venice* (William Shakespeare); *Midnight Assassin* (Patricia L. Bryan and Thomas Wolf); *Native Son* (Richard Wright); *Noon Wine* (Katherine Anne Porter); *O Pioneers!* (Willa Cather); *Paris Trout* (Pete Dexter); *The Reader* (Bernhard Schlink); *Reading Lolita in Tehran* (Azar Nafisi); *Remains of the Day* (Kazuo Ishiguro); *Snow Falling on Cedars* (David Guterson); *The Stranger* (Albert Camus); *The Sweet Hereafter* (Russell Banks); *Their Eyes Were Watching God* (Zora Neale Hurston); *The Trial* (Franz Kafka); *Woman Hollering Creek* (Sandra Cisneros). ■

Patricia L. Bryan is a professor of law at the University of North Carolina at Chapel Hill, where she teaches tax classes and a seminar in Law and Literature. Bryan is the co-author (with Thomas Wolf) of Midnight Assassin: A Murder in America's Heartland *(Algonquin 2005; U. of Iowa paperback 2007), which tells the story of Margaret Hossack, an Iowa farmwife who was accused of killing her husband and whose 1901 murder trial was the inspiration for Susan Glaspell's* A Jury of Her Peers. *She is currently working on a nonfiction book entitled* John Wesley Elkins: The 19th Century Boy Murderer of Anamosa.

Endnotes

1. *Centaurs* by J. S. Marcus is a short story I've assigned in the seminar that describes these distressing changes from the perspective of a young law student who's in the process of "becoming a lawyer." *Centaurs* (and other stories I've assigned) may be found in the excellent collection edited by Jay Wishingrad: *Legal Fictions: Short Stories About Lawyers and the Law* (Overlook Press 1992).
2. *See*, for example, Walter Bennett, *The Lawyer's Myth: Reviving Ideals in the Legal Profession* (University of Chicago Press 2001); Susan Bandes, *Repression and Denial in Criminal Lawyering*, 9 Buffalo Criminal Law Rev. 339 (2006).
3. Ursula K. Le Guin, *Prophets and Mirrors: Science Fiction as a Way of Seeing*, 7 Living Light: A Christian Education Review 111-12 (1970).
4. For an excellent description of the early role of lawyers and changes that came after the Civil War, *see* Robert A. Ferguson, *Law and Letters in American Culture* (Harvard University Press 1984).
5. *Id.* at 199-206.
6. *See* Wigmore, *A List of One Hundred Legal Novels*, 17 Ill. Law Rev. 26 27 (1922). *See also* Richard H. Weisberg, *Wigmore's "Legal Novels" Revisited: New Resources for the Expansive Lawyer*, 71 *Nw. U. L. Rev.* 17 (1976).
7. *Id.*
8. *See* Richard Weisberg, *Coming of Age Some More: "Law and Literature" Beyond the Cradle*, 13 Nova Law Rev. 107 (1988), quoting several of Justice Cardozo's works, and offering a good description of the law and literature field.
9. Elizabeth Villiers Gemmette, *Law and Literature: An Unnecessarily Suspect Class in the Liberal Arts Component of the Law School Curriculum*, 23 Valparaiso Law Review 267 (1989).
10. Elizabeth Villiers Gemmette, *Law and Literature, Joining the Class Action*, 29 Valparaiso Law Rev. 665 (1995).
11. For an excellent discussion of this novel and questions it raises for lawyers, see Rob Atkinson, *How the Butler Was Made to Do It: The Perverted Professionalism of* The Remains of the Day, 105 Yale Law Journal 177 (1995).

NC IOLTA Perseveres Through Income Fluctuations

By Clifton Barnes

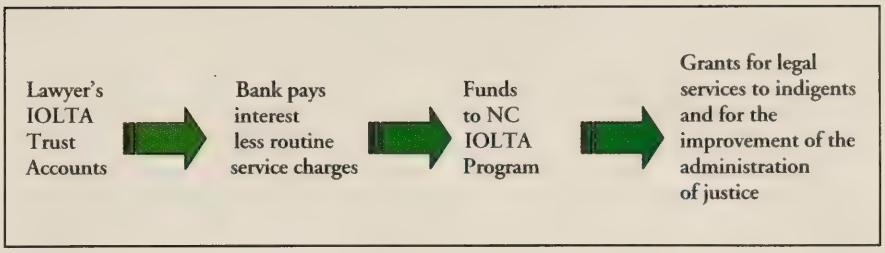
In celebration of the 25th anniversary of NC IOLTA, the NC State Bar Journal *is publishing a three-part series on NC IOLTA during 2009. The article that appeared in the spring issue focused on the program's establishment and its exceptional leadership throughout its history. This article discusses the ups and downs of IOLTA's income over the years. The final article will appear in the next quarter's issue and will highlight some of the program's grantmaking.*

When the NC Interest on Lawyers' Trust Accounts was implemented in April 1984, few could have imagined that one day every eligible lawyer would be taking part and that lawyers and bankers would be working hand-in-hand to make the program a success. Now, 25 years later, that's exactly what's happening.

NC IOLTA was created by the State Bar, with approval from the NC Supreme Court, as a way to fund civil legal services for the poor, and programs that further the administration of justice. Prior to the IOLTA program, lawyers' general trust accounts earned no interest. Now, through IOLTA, attorneys place these nominal, usually short-term, client funds into a single, pooled, interest-bearing trust account. Banks forward the interest, minus permissible service charges, to the IOLTA program which uses the money for law-related charitable purposes.

By order of the NC Supreme Court, the NC IOLTA program became mandatory effective January 1, 2008. Prior to that time, 75% of eligible attorneys (i.e., those who maintain general trust accounts) already participated in the program.

In the early years, IOLTA staff and board members spent much of their time educating lawyers about the program and working to grow participation steadily. In addition, staff, trustees, and State Bar officers worked with the NC Supreme Court to get the IOLTA program converted from an opt-in to an opt-out program, which finally came to fruition beginning in 1994.



Martha Lowrance was one of those instrumental in pushing for that change, which resulted in participation growing to about 60%. "I did not think North Carolina would ever go to a mandatory program but would enforce the opt-out program to get the maximum funding it could," said Lowrance, who joined the program just a month after it started and served as executive director of IOLTA from 1985-1995. "Times changed after I left and I was wrong about North Carolina having a mandatory IOLTA program."

The US Supreme Court ruled in 2003 that the Washington State IOLTA program did not violate the Fifth Amendment. Subsequently, cases against the Texas and Washington programs were dismissed. In 2004, the Supreme Court refused to hear another Fifth Amendment case against the Missouri IOLTA program.

"The change from a voluntary program to a mandatory program was almost inevitable once it was clear that there were no legal impediments," said Tom Lunsford, NC State Bar Executive Director.

"Funds held in general trust accounts cannot be economically invested for individual clients and the interest on such funds is like 'found' money on the sidewalk," Lunsford said. "It really makes no sense to stoop down and pick up only 75% of it when the rest is there for the taking, and when the prescribed uses for such money are so compelling," he said.

Since 1985, NC IOLTA has provided urgently needed funding for civil legal services to poor North Carolinians through grants made to legal services programs and volunteer lawyer programs.

"And the beauty of it, as far as the lawyers are concerned, is that participation in IOLTA is hassle-free and cost-free," Lunsford said. "There's very little reason to oppose universal participation and, happily enough, there has been virtually no opposition."

In August 2007, the NC State Bar Council, with support from the NC Equal Access to Justice Commission and the NC Bar Association, petitioned the NC Supreme Court to direct the State Bar to implement a mandatory IOLTA program. In October of that year, the NC Supreme Court did just that.

Attorneys had until June 2008 to comply by ensuring that all their general client trust accounts had been set up as IOLTA accounts. The IOLTA program registered more than 3,000 new IOLTA accounts that they attribute to the change.

"As it turns out, we made this change at a particularly good time as the economic crisis has meant that most IOLTA programs have seen serious declines in IOLTA income," said Evelyn Pursley, executive director of the NC IOLTA program.

Some IOLTA programs have seen their income decline by as much as half and many have had to cut grants. "In some states legal aid programs have laid off staff due to cuts in IOLTA grants—all this coming at a time when the legal aid services are more sorely needed because of the economy," Pursley said.

In North Carolina, however, the IOLTA program's income surpassed $5 million for the first time in 2008 and increased 16% over 2007. "If we had not gone to mandatory, we estimate our IOLTA account income would have decreased by around 13%," Pursley said. "Approximately 25% of our total income in 2008 came from the new IOLTA accounts."

The 2008 income allowed more than $4.1 million in grant money to be awarded again for calendar year 2009. That was a NC IOLTA record for most money granted in a year in 2008, and grant-making was kept flat for 2009 in anticipation of income declines.

Pursley said the changeover to mandatory went "very smoothly." IOLTA staff spent a lot of time on the phone with bankers and attorneys answering questions and helping set up accounts.

"We focused on customer service," she said. "We have received thanks and compliments from attorneys for working with them quickly and efficiently."

The IOLTA staff disseminated information through the State Bar website and law-related publications and organizations, in addition to direct mailings to banks and law offices. Pursley was also asked to prepare presentations for banks and their attorney customers.

"We found this changeover provided a 'teachable moment' for educating attorneys about trust account practices," she said. "We also worked with Alice Mine (State Bar Counsel) and Bruno DeMolli (State Bar Auditor) to answer questions and to disseminate information about frequently asked trust account questions."

The mandatory trend has expanded nationwide. Rhode Island becomes the 39th mandatory IOLTA jurisdiction this year.

Former IOLTA trustees talk about how rewarding yet time-consuming it was to reach out to law firms to take part in the program prior to it becoming mandatory.

"I was enthusiastic about it when I joined the board," said Charlotte attorney Jim Talley, who served as a trustee from 2002-2008. "I worked with our law firm to make sure we were involved. Once firms knew about how much good the program does, most took part. I was pleasantly surprised that, even though it wasn't mandatory, some 75% of NC law firms participated in IOLTA."

Ray Owens, a Charlotte lawyer, credits Pursley in large part with increasing the participation of eligible attorneys from 59% in 1997 to 75% in 2007. Owens chaired the committee which hired Pursley as the executive director in 1997.

"Before mandatory, it was a continuing task to increase attorney participation, and she did an excellent job of increasing the figures," Owens said.

He said Pursley has credibility with all the various constituencies involved with IOLTA and that came in handy when working through some legal services restructuring that occurred throughout the state not long after she was hired. "I'll

take all the credit for hiring Evelyn," Owens said with a laugh.

Pursley said that, once hired, the trustees asked that she work to increase the number of lawyers with IOLTA accounts. "I believe that one reason I was selected for the position was that I was doing some fund raising and public relations work, and working with volunteers at my position at the Duke Law School," she said.

For her part, Pursley credits the trustees and the assistance of various councilors and other bar leaders who contacted non-participants in the IOLTA program. In fact, in 2001, then-State Bar President Jerry Parnell made a point to make contact with all non-participants during his tenure.

Pursley said her office worked to raise visibility of the program by putting regular updates highlighting income and grants in the State Bar *Journal*, by speaking to law students, by participating in continuing legal education programs, and by making reports at State Bar meetings as well as meetings of other voluntary bar groups.

"The program did well in signing up attorneys, and, prior to going mandatory had almost all the largest firms in the state participating," she said. "We kept a list of firms with ten or more attorneys and asked trustees to make contact with those firms."

Ed Aycock, a former trustee, said going to mandatory will allow board members to use their time in a different, more effective way. "Hopefully, mandatory participation has eliminated the need for trustees to devote time, energy, and resources to achieving full participation in the program by eligible lawyers, thereby enabling them to focus on enhancing revenue and effectively allocating funds to grant recipients," he said.

That's exactly what it has done, said Robert F. Baker of Durham, who currently serves on the board. "The main change for the work of the trustees is that less time is spent recruiting lawyers to participate and more time is spent in efforts to get banks to increase interest paid on lawyers' trust accounts and to decrease service charges on those accounts," Baker said.

In fact, Baker said that the most rewarding aspect of his service with IOLTA so far has been working with representatives of a large bank to successfully persuade them to increase the amount of interest paid and to waive service charges on the lawyer trust accounts at their bank. "That resulted in a very large increase in income to IOLTA from that bank," he said.

In the late 1990s, after speculating on how to approach banks and who to contact to negotiate for the best policies on IOLTA accounts, the State Bar put effort into adding IOLTA trustees who have ties to the banking industry. For example, Aycock, who is counsel at the NC Bankers Association, served two three-year terms on the board from 1999 to 2005 and chaired the board in 2004-05. "Not only was he a stellar trustee," Pursley said, "but he continues to be a wonderful resource for the program when we need to craft a message for or talk to bankers."

Because interest on lawyers' trust accounts is the main source of revenue for IOLTA, Aycock said it's essential that the board of trustees includes a representative of the banking industry.

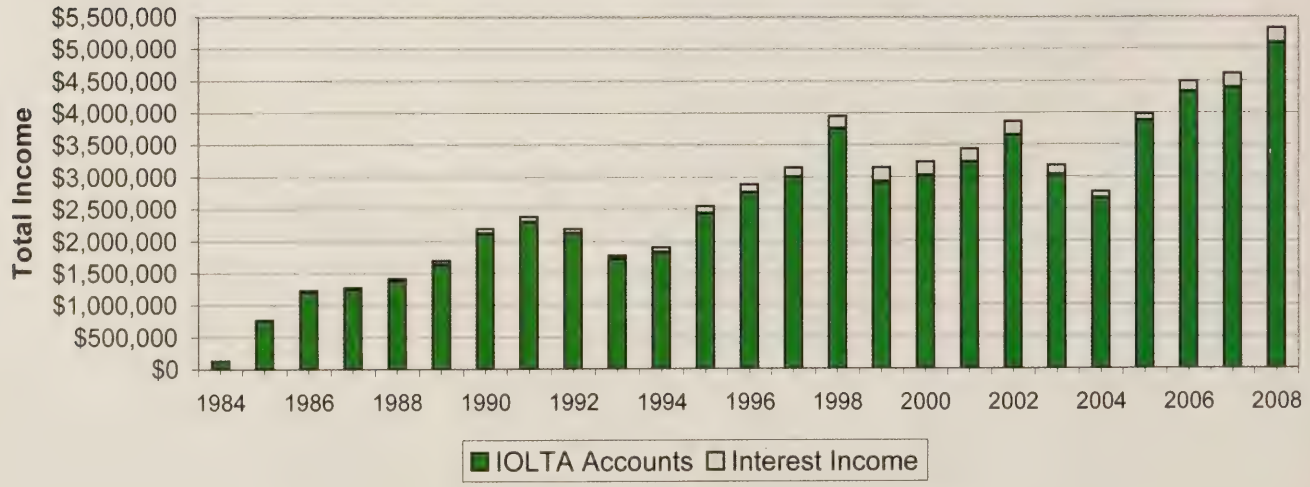
"A representative of the banking industry provides information about, and understanding of, bank operations relating to IOLTA accounts, including rate and fee structures that banks apply to IOLTA and other commercial accounts," Aycock said.

The representative, who also acts as a liaison to the banking industry, helps bankers understand IOLTA and helps IOLTA trustees understand banking procedures, he said.

Ayock states that bankers and lawyers alike need to understand that IOLTA is an integral part of the State Bar and legal profession's responsibility to ensure that quality legal representation is available to all who need the assistance of counsel.

NC IOLTA INCOME HISTORY

(Interest Income is earned on IOLTA Funds held with the NC State Treasurer)



"Funding provided by IOLTA is essential to the continued success of those programs that provide legal services to the indigent and which further the administration of justice," he said.

A current trustee who understands bankers and lawyers is Michael C. Miller, who is president and CEO of CommunityOne Bank based in Asheboro. "Banks are already among the most generous corporate citizens in their communities," Miller said. "Even so, it can help for the IOLTA board to have a resource from the banking point of view to keep bank management and boards informed about the benefits of IOLTA participation, particularly in relation to banks' obligations to low and moderate income borrowers."

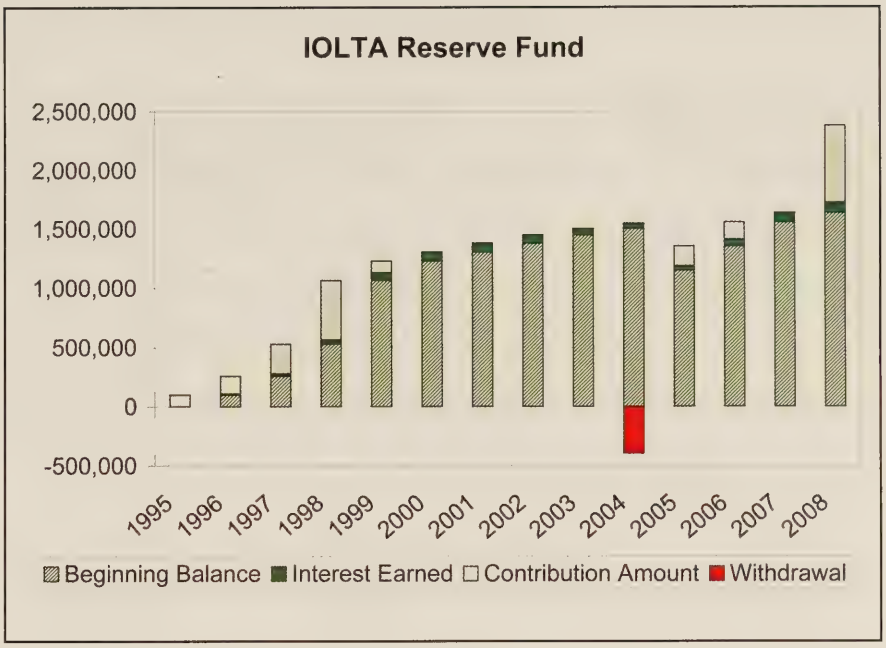
Miller, who was incoming chairman of the NC Banker's Association when he joined the board in 2003, had been an attorney with experience handling business transactions and closing real estate loans. Aycock solicited his interest and willingness to serve on the board if asked.

"He is now in his sixth year as a trustee and has served as our chair," Pursley said. "Mike is an attorney but has spent most of his career as a banker in North Carolina. He is a wonderful liaison to the banking industry and will continue to be able to educate his fellow bankers about IOLTA once he leaves the board."

Miller said that when he does leave the board he would like to see lawyers continue to "cultivate" the activities of banks with IOLTA. "Banks have voluntarily done a good job with rates paid and service charge waivers or limitations, and are positively influenced by the attorneys who do business with them," he said.

Although probably 90% of all IOLTA income is derived from six banks, mandatory IOLTA has given more community banks the incentive to join the effort, he said.

Pursley said the IOLTA program has used the carrot approach with banks. "We highlight the banks that give us the best policies on our bank list, which is on the State Bar website, (www.ncbar.gov), and we publish good news about changes to bank policies in a bank news box in the quarterly State Bar *Journal*," she said. "The banks have become very interested in whether they are highlighted on that list because they are interested in their attorney clients."



Ward Hendon, an Asheville attorney who served as a trustee from 1993 to 1999, said that, unfortunately, neither clients nor the general public knows much about IOLTA and the good works it does. But, while he understands and appreciates what lawyers have done to make IOLTA a success, he's not looking so much for the legal profession to receive the accolades.

"This is money that once went to the banks," Hendon said. "It's the banks that should get some credit for it."

It's Hendon himself who gets some credit for keeping funds available for grants steady. The amount of interest income IOLTA takes in depends on fluctuating interest rates. Hendon encouraged the trustees to establish a reserve fund in anticipation of the times when income falls so much that the ability to continue ongoing grants is affected. The reserve fund was established in 1996, and in 2004, for the first and only time, the trustees authorized use of the funds from reserve to keep ongoing grants steady.

"Although the reserve fund wasn't used for years, I thought it was a great idea when I was a trustee," Hendon said. "As it turns out, I have been reading about problems other states are having that we aren't having because we have a reserve fund."

Prior to the reserve fund, known informally as the Ward Hendon Fund, when interest rates dropped, grants had to be cut. In 2004, while income was down more than $1 million from just two years earlier and lower than at any time since 1995, IOLTA grants remained steady in North Carolina.

"Because our grants often support operating expenses, it affects individuals' salaries as well as the financial health of grantee organizations and their ability to provide equal access to justice," Pursley said. "So, grant decreases are particularly difficult for everyone."

The reserve fund balance started out at about $250,000 and had worked up to $1.5 million by the time it was first used. The board has not only replenished the reserve since 2004, it has increased it to more than $2 million, which is about half of the current annual grant amount. In fact, since income declines are expected now that all new mandatory accounts are signed up, the trustees put all additional income from the most recent cycle into the reserve fund so that the program would have what it needs for the 2010 grants.

Since the NC IOLTA program is not part of a bar foundation, nor does it take part in fundraising, the income for grants comes from the interest remitted from IOLTA accounts. Now that the program is mandatory, other than negotiating with banks for the best interest rates and lowest

service charges, there are few ways to increase income.

The next issue on the horizon aimed at increasing income is "comparability," which requires lawyers to hold their accounts only at banks that agree to pay IOLTA accounts the highest rate available on similar accounts at the bank.

"It is similar to other State Bar requirements for banks that want to hold attorney trust accounts—for example, Non Sufficient Funds notices and reporting requirements," Pursley said.

Twenty-four IOLTA programs have now instituted "comparability" with income doubling or tripling in some instances.

NC State Bar President John MacMillan has made exploring this concept a goal of his administration and a consultant is analyzing IOLTA accounts at the largest banks to see how well it would work in North Carolina. (For more information, see the Comparability FAQ on page 36.)

The trustees tend to agree that whatever can be done to help the grantees should be done. "The needs of the indigent population are probably beyond what any of us can imagine or forecast," Miller said. "The trustees will work to fund as much as is possible and prudent, given the difficult economic times in which we are all working." ■

The third and final article in the series celebrating 25 years of the NC IOLTA program will deal with grants and appear in the Fall 2009 Journal.

Barnes, who majored in journalism and political science at UNC-Chapel Hill, served as director of communications of the NC Bar Association from 1987-2002. He now runs his own writing, editing, and web development business named cb3media.com.

What IOLTA Has Meant to Me

BY GREG DIXON

My summer of work as an IOLTA-funded intern at Pisgah Legal Services (PLS) was an extremely rewarding, occasionally frustrating, and always challenging experience. I helped many of PLS's attorneys with a wide variety of cases in housing, consumer, and family law for its low-income clientele. On a day-to-day basis, I wrote memos on legal issues, conducted client interviews, prepared pleadings and interrogatories, collected evidence for litigation, and accompanied my supervisor, Shelley Pew Brown, at discovery and court proceedings. Additionally, I represented PLS at community outreach and education meetings, and aided the Hendersonville Affordable Housing Coalition with data assessment and housing advocacy for the poor, elderly, disabled, and mentally ill.

The highlights of my summer were both professional and personal. Professionally, I benefited greatly from working closely with Shelley on a daily basis. Throughout the summer, she went to great lengths to ensure my development, spending hours of her time to discuss cases and community issues with me, providing feedback on my work, and including me in her client interactions and discovery proceedings. Other attorneys at PLS were similarly generous, giving me practice at working with a wide range of personalities on a variety of issues. Additionally, my position at PLS opened doors for me throughout the western North Carolina legal community, setting me up with an instant network of attorneys and court personnel who were unfailingly ready to advise me on legal questions and my life as an attorney.

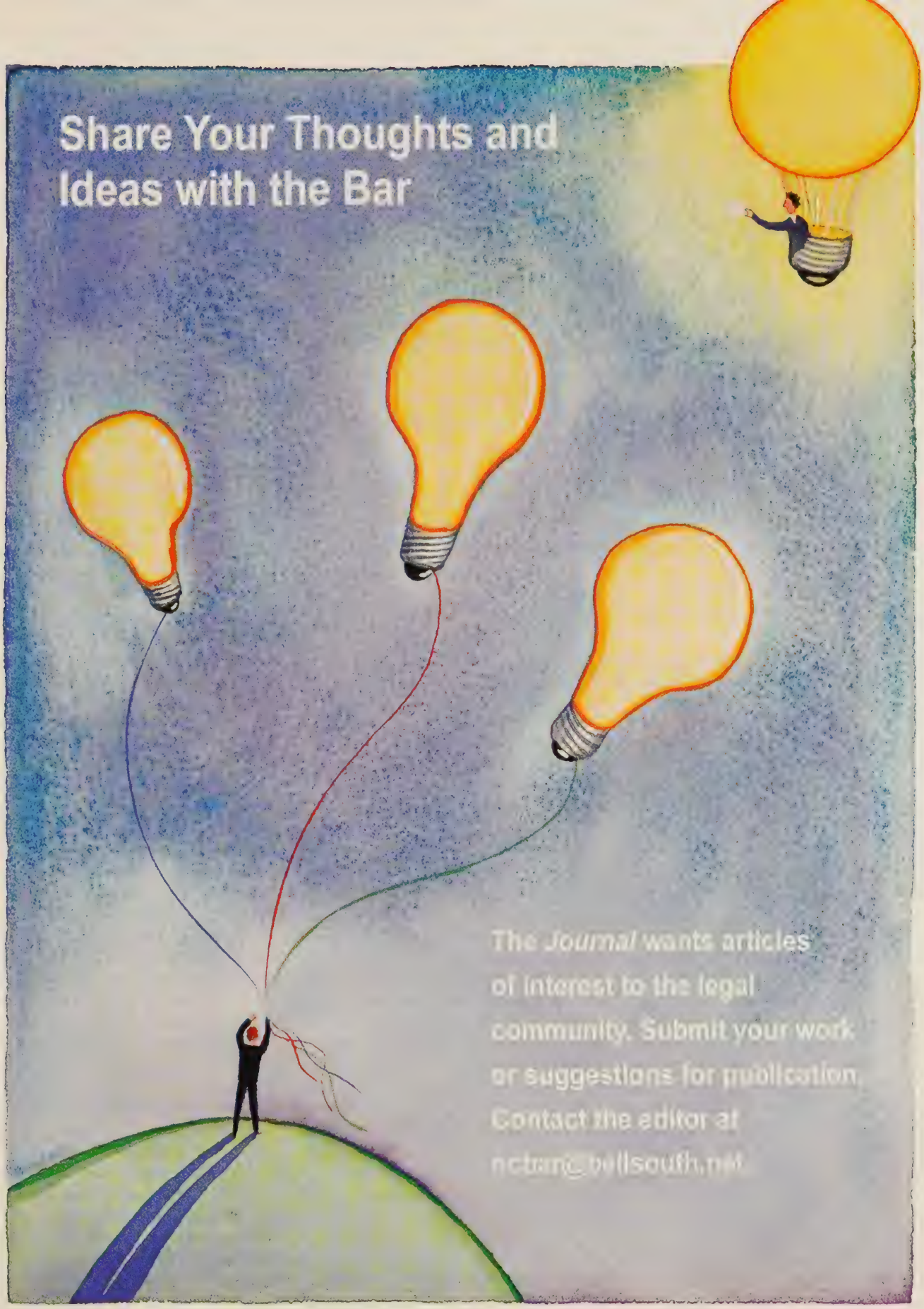
Personally, I enjoyed working in a small office with a relaxed environment, and interacting with my colleagues both inside and outside the office. Also, I found great satisfaction in talking with PLS's clients and assisting them with meeting their basic needs. In one case, a single mother and her three boys were being evicted from public housing because one of the boys had reported drug-related activity in the neighborhood to his mother, who, in an effort to do the right thing, immediately called the police. I was able to help Shelley present their case at a hearing, and ultimately keep them in their home. On other days, I had opportunities to protect victims of domestic violence from their abusers, and to prevent sometimes-tyrannical landlords from abusing the rights of elderly and disabled tenants. Driving home at the end of the day, I was able to feel good knowing that I had not only improved myself as a lawyer, but also helped to improve the lives of others.

The positive quality of my summer experience is a reflection of the quality of PLS itself. Its attorneys are passionate and assertive about protecting clients' rights, professional and congenial members of the local bar, and willing to share their legal and local knowledge with summer clerks. For this experience, I am also indebted to the North Carolina Bar's IOLTA grant program, without which I would have struggled to meet my summer room and board expenses.

The gratifying aspects of my experience at PLS firmed up my personal commitment to a lifelong involvement with poverty and public interest law. As I move forward with my career, I hope to regularly take on cases through a program like the 28th Judicial District's Mountain Area Volunteer Lawyers service, in which legal aid organizations refer indigent clients to private lawyers. ■

Greg Dixon is a second year student at Duke Law School who was an IOLTA-funded intern at Pisgah Legal Services in Asheville during summer 2008.

Share Your Thoughts and Ideas with the Bar



The *Journal* wants articles of interest to the legal community. Submit your work or suggestions for publication. Contact the editor at nctarr@bellsouth.net

Mediation Manners (They Matter)

By Ms. Mannerly Mediator

As mediation becomes routine in North Carolina, parties and litigators may need more education about the proper behavior at mediation. While most attorneys and parties behave professionally, courteously, and appropriately, there are times when behavior may not conform with professional standards. Following are common mediation issues in North Carolina Superior Court cases, and the responses that would be appropriate by an etiquette columnist (such as Ms. Mannerly Mediator) to a litigator making the statements below.

1 I don't know what the damages are in this case, but we will work on that while you are meeting with the other side.

Gentle litigator, making this statement to a mediator is similar to saying, "I know this is a black tie dinner, but I need to sew on a few buttons and iron my clothes while the other guests are eating and then I will be ready...oh and I will have to run home and get my shoes, too." When one is attending an event, one should be as ready as possible as soon as one arrives at the door. Occasionally, one of the guests may need a safety pin or help with a hem, but failure to come to the party fully dressed puts all of the other participants at unease and will not be helpful to having an enjoyable and successful event.

The rules governing mediation in North Carolina require only the attendance of the parties at a mediation and do not require them to be ready, or even to participate in good faith. Rule 4, Revised Rules Implementing Statewide Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions (hereafter MSC Rules). The mediation, however, is generally the best time for the parties to try to discuss settlement. Participants should come to a mediation knowing their damages and who will be attending for the opposing side. Before the mediation, participants should be aware of the different ways their case can be resolved, and then at the mediation try to persuade the specific person attending of the merits of their proposed resolution.

While no party is required to make an offer at mediation, the mediator is authorized to be in control of the conference. Rule 6, MSC Rules. The mediator should not prolong a mediation conference unduly; however, the length of the conference can become an issue if one side comes to the mediation and attempts to prepare while the mediation is ongoing.

Ms. Mannerly Mediator knows that while we are all aware of this rule, a reminder of such proprieties is always helpful and in the future, except for an occasional missing button, the inquiring litigator will arrive at the mediation fully prepared.

2 Hey, aren't you glad that I called? We are giving you a day of vacation tomorrow, because we need to postpone the mediation.

Gentle litigator, while everyone enjoys a day of relaxation, that day is enjoyed much better if the vacation day is one that the person has selected for himself or herself. When a host and a number of guests have arranged their schedule around another person and a difficulty arises, it is incumbent upon the guest to let the host know as soon as possible. One must put oneself in the other party's shoes, so to speak, which will be a helpful perspective to have when the mediation is actually held.

Scheduling any social event, and a mediation in particular, can be almost as difficult as working towards a resolution at the mediation. As everyone knows, rescheduling a postponed mediation will take time and may result in issues with continuing the mediation deadline. Rule 3C, MSC Rules.

Different courts have different rules about continuations and there is no assurance, in any event, that the deadline can be extended. The parties may also have difficulty finding another date when everyone can get together. Of course, there are times when unavoidable circumstances require that the mediation be continued, but when one party or the other has simply decided the date is not convenient, then the continuance may become an issue in and of itself.

Rule 7E, MSC Rules, provides for a postponement fee. If the postponement request is made five business days before the scheduled date of the mediation, the fee, by rule, is $250 in addition to the one-time, per case, administrative fee. If a mediation is cancelled the day before the mediation, and not rescheduled because the parties have settled, then the MSC Rules cancellation fee would be $375. Of course, if the mediator is privately selected, then the fee may be greater or smaller, depending upon that mediator's agreed upon rate.

Fees may also be due if the parties change mediators. The MSC Rules provide for payment of an administrative fee if the parties substitute mediators after one has been appointed. Rule 7C, MSC Rules. Failure to pay the mediator's fee may result in a motion for sanctions by the mediator, and of course, Ms. Mannerly Mediator would hate to see the litigator and the mediator involved in such difficulties.

3 Go tell the plaintiff/defendant that you think this case should settle for "x" amount of money. Gentle litigator, Ms. Mannerly Mediator would never assume that you are trying to substitute your opinion for that of the mediator's, nor would she assume that you are asking the mediator to convey something that the mediator does not believe. Instead, Ms. Mannerly Mediator will assume that you are so persuaded by the righteousness of your position that you truly believe no one could possibly disagree with you. Ms. Mannerly Mediator will remind you, however, that the proper inquiry would be to determine whether your position is reasonable and whether the mediator can convey the information without violating any rules of ethics.

Mediators in North Carolina, as is typical of most learned professions, are governed by standards and rules of ethics. For those of you who need a refresher, you can find them on the North Carolina Dispute Resolution Commission's (DRC) website. Standard V of the NC Supreme Court Standards of Professional Conduct of Mediation governs Self Determination of the parties. Standard V provides that, "A mediator shall respect and encourage self-determination by the parties in their decision whether, and on what terms, to resolve their dispute, and shall refrain from being directive and judgmental regarding the issues in dispute and options for settlement." The rule does set boundaries as to when a mediator may express an opinion.

Subdivision C of Standard V provides that, "A mediator shall not impose his/her opinion about the merits of the dispute or about the acceptability of any proposed option for settlement." This provision instructs the mediator to resist giving opinions even when requested to do so. Expression of an opinion is permitted "as a last resort to a party or attorney who requests it and the mediator has already helped that party utilize his/her own resources to evaluate the dispute and options." The NC DRC certified mediator is governed by these standards and, as with an attorney's rules of ethics, must follow them during mediation.

Ms. Mannerly Mediator will assume that the gentle litigator is not aware that the other side would have to ask the mediator's opinion, after having exhausted options for settlement, before the mediator could give any opinion. Ms. Mannerly Mediator will assume that such an instruction to the mediator (that the mediator should tell the other side that their case is worth "x") would not now be given. It would be impolite to ask the mediator to violate his or her ethical rules.

4 We don't need to put our agreement in writing, because we will prepare a formal settlement document later.

Ms. Mannerly Mediator understands that you are a person of your word and that you would not change your mind after the mediation because to do so would be impolite

"Ms. Mannerly Mediator is confident that the parties would not intentionally misunderstand one another nor change their minds in the days following the mediation, but just in case...the agreement reached at the mediation must be reduced to writing and must be signed."

and would lead others to not trust your word. Ms. Mannerly Mediator would point out that, regardless of the good intentions of the parties, there are occasions when people misunderstand each other and they think they have an agreement on some particular matter, such as the proper way to prepare a dish, when in fact they mean two completely different dishes.

Rule 4C, MSC Rules, requires the parties to an agreement reached at mediation to reduce the agreement to writing and to sign it along with the counsel. Thus, under the rule, there are two requirements. First, the agreement must be reduced to writing and then second, the agreement must be signed. If the agreement is not reduced to writing and signed, then the work at the mediation may result in there being no agreement between the parties. *See Cohen Schatz Associates, Inc. v. Perry, et al,* 169 N.C. App. 834, 611 S.E.2d 229 (2005). Pursuant to N.C. Gen. Stat. Section 7A-38.1(l), a mediated settlement agreement must be in writing and signed in order for the agreement to be enforceable.

In addition to the rules for the parties, the mediator has an obligation to report to the court whether or not the case is resolved. If the case is resolved at mediation, then the mediator must make that report to the court, as well as obtain the signature on Form 813 of the attorney for the party reporting the dismissal. The mediator should not report that the case has been resolved unless the case has been reduced to writing and signed. See Advisory Opinion, NC Dispute Resolution Commission, Opinion Number 07-11 (Adopted and Issued by the Commission on March 16, 2007)("mediator seriously erred in failing to required that the agreement be reduced to writing").

Ms. Mannerly Mediator is confident that the parties would not intentionally misunderstand one another nor change their minds in the days following the mediation, but just in case, and in order to keep the mediator, the attorneys, and the parties from further unpleasantries, the agreement reached at the mediation must be reduced to writing and must be signed.

5 Yes, I am the only one appearing at the mediation on behalf of the defendant and I am sorry that I forgot to call you.

Gentle litigator, of course the polite response to any invitation, and a court order to attend a mediation holds at least the status of an invitation, is to either accept or decline the invitation, and to RSVP to let the host know if one of the invited parties will not be attending. While the host mediator may accept your expression of regret, there may be consequences for all of those involved.

Regardless of the social etiquette involved, as most litigators know, the North Carolina Rules, Rule 4, sets forth the requirements of who *must* attend a mediated settlement conference which is being held pursuant to a Superior Court order for mediation. Rule 4, MSC (emphasis added). There are similar rules for other courts and agencies in North Carolina. While these rules may change from time to time, they generally require attendance by at least the named party or, if the party is a corporation or agency, a representative of that entity, in addition to the attorney of record.

The rule provides that: "Any party or person required to attend a mediated settlement conference shall physically attend until an agreement is reduced to writing and signed as provided in Rule 4C or an impasse has been declared. Any such party or person may have the attendance requirement excused or modified, including the allowance of that party's or person's participation without physical attendance, (a) by agreement of all parties and persons required to attend and the mediator, or (b) by order of the senior resident superior court judge, upon motion of a party and notice to all parties and persons required to attend *and* the mediator." Rule 4, MSC.

Usually, mediators are very flexible in working with the parties about having the appropriate person present, but difficulties arise when one party has failed to notify the other that someone will not be attending the mediation. When a party fails to notify the other side that one party will be absent, or will only be available by telephone, the mediation very well may get off to a difficult start. The situation can be easily remedied by the litigator letting the mediator know if there is difficulty in securing the attendance of a participant and then the mediator can work with the parties to resolve whatever issues may arise.

Regardless of rule or program requirements, when the true decision makers are physically present at the mediation, the likelihood of having an efficient and effective mediation increases dramatically. Of course, as Ms. Mannerly Mediator would say, the more the merrier at the event, especially if the host has planned on the guests' presence. ■

Having had a number of challenges presented at mediation, it appears to me that most issues could be resolved by thinking how an etiquette columnist might respond to problems presented at mediation. Please forgive my weak attempts at humor, but I hope that the messages are appropriately conveyed.

Ms. Mannerly Mediator is the nom de plume of a mediator in Pilot Mountain, NC, who would like to remain anonymous. Ms. Mannerly Mediator is a past chair of the Dispute Resolution Section of the North Carolina Bar Association and she currently serves on the Board of Governors of the North Carolina Bar Association. Ms. Mannerly Mediator's column appears in The Peacemaker, *a publication of the Dispute Resolution Section of the North Carolina Bar Association. Further enquiries can be submitted to annanderson681@hotmail.com.*

A Kinder, Gentler Bar

By Suzanne Lever

It is the end of the month. Your personal injury client calls you to tell you that he, his wife, and their infant child are about to be evicted from their home. The client requests a small loan to pay the rent for the month. The client's case, which is a good one, is close to settlement. Surely there can be nothing wrong with advancing your client a short-term loan to keep his family from being evicted, right? Wrong. It is a violation of Rule 1.8(e) of the Rules of Professional Conduct for a lawyer to make or guarantee a loan to a client for living expenses. *See* Rule 1.8, comment [10].

The Ethics Committee is considering an amendment to Rule 1.8, which would allow a lawyer to provide financial assistance to indigent clients. Currently, Rule 1.8(e) provides that a lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client. The prohibition is based on the common law actions of champerty and maintenance and is designed to avoid giving the lawyer too great an interest in the representation.

The proposed amendment provides that a lawyer representing an indigent client may provide financial assistance for essential needs such as food, housing, and utilities, as long as there is no obligation to repay and there was no representation to the client prior to the legal representation that such financial assistance would be provided. A proposed amendment to comment [10] to Rule 1.8 explains that the exception is only warranted where an indigent client is in dire financial circumstances and unable to pay for essential needs such as housing, utilities, or food. An additional proposed amendment to the comment adds that it is not a violation of Rule 1.8 to provide holiday gifts or money for holiday gifts for an indigent client or the children of an indigent client if there is no obligation or expectation of repayment.

A handful of states already have similar provisions in their rules. Alabama allows a lawyer to advance or guarantee "emergency financial assistance." In the District of Columbia, a lawyer may provide financial assistance which is "reasonably necessary" to permit the client to institute or maintain the litigation or administrative proceedings. In Mississippi, a lawyer may advance "reasonable and necessary medical expenses" and "reasonable and necessary living expenses." A lawyer licensed in Texas may advance or guarantee court costs, expenses of litigation or administrative proceedings, and "reasonably necessary medical and living expenses." In Minnesota, Montana, and North Dakota, a lawyer may guarantee a loan "reasonably needed to enable the client to withstand delay in litigation that would otherwise put substantial pressure on the client to settle a case because of financial hardship rather than on the merits."

Lawyers have expressed concern that the approval of this amendment will result in an unfair advantage to large firms with deep pockets. The fear is that clients will learn which law firms have a reputation for providing financial assistance to their clients and will select their lawyer based on that factor. In addition to concerns about such "word of mouth" dissemination of this information, lawyers are also concerned that firms will use the fact that they offer financial assistance as a marketing tool to attract clients—although this would clearly be prohibited by the amended rule. At a time when competition for clients is especially fierce, the expression of such concerns is not surprising. On the other hand, the economic conditions making the competition for clients so intense also seem to beg for the approval of this, or a similar, amendment.

What do you think? Does the proposed amendment promote humanitarian efforts by members of the bar to help clients truly in need, or does it encourage self-serving tactics by lawyers to entice clients, and perhaps indenture them, through the lure of guaranteed financial assistance? The proposed amendment has been sent to an ethics subcommittee for further consideration. The State Bar welcomes your comments regarding proposed amendments to the rules. If you are interested in commenting on the proposed amendment, please send a written response to Suzanne Lever, The North Carolina State Bar, PO Box 25908, Raleigh, NC 27611, slever@ncbar.gov. ■

Annual Meeting

You are asked to take notice that the annual meeting of the North Carolina State Bar will be held on Friday, October 23, 2009, in conjunction with the council's quarterly business meeting. Further, the council will hold an election on Wednesday, October 21, 2009, at 11:45 a.m. at the Marriott Raleigh City Center, Fayetteville Street, Raleigh, to choose the agency's president-elect, vice-president, and secretary-treasurer for 2009-2010. All members of the Bar are welcome to attend these events.

IOLTA Faces Difficult Economic Times

Income

All information on IOLTA income earned in 2008 has now been received and recorded. For 2008, we can report that income was the highest in NC IOLTA history, surpassing $5 million for the first time—a 16% increase over the previous year. Most IOLTA programs around the country reported significant decreases in 2008—some by over 50%. The income decreases were the result of the economic downturn, which lead to unprecedented low interest rates being paid on decreased principal balances in the accounts.

We are very fortunate that moving to a mandatory program in 2008 resulted in an increase in income as we registered over 3,000 new IOLTA accounts. Approximately 25% of our income came from those new accounts. We estimate that we would have seen a 12% decrease in total income if we had not changed to a mandatory program in 2008. However, the deadline for compliance with the now mandatory program was June 30, and by December we were hit with a 20% decline in income. January saw a steeper than anticipated 54% decline as some of our largest banks decreased interest rates further. February was slightly better with a 46% decline.

Banks

We are contacting the largest banks that have recently dropped their interest rates—Bank of America, BB&T, Wachovia, and Fifth Third—to request that they provide a better rate on IOLTA accounts. We will also be contacting banks that do not waive service charges to make sure they understand how service charges are to be applied to IOLTA accounts. We will continue to work with the now over 100 banks in North Carolina that have IOLTA accounts to improve their IOLTA policies. Banks that pay higher rates or waive all service charges are noted on the IOLTA bank list that is located on the State Bar website, www.ncbar.gov.

Grants

In many states, lower IOLTA income has already resulted in significantly decreased grants and even layoffs in legal aid programs that depend on grant funds. Although we had increased income in 2008, concerns over the economic crisis and its effect on IOLTA income going forward persuaded the trustees to keep total grants flat for 2009 at $4.1 million, and to move income increases from 2008 into reserve so those funds will be available to keep grants steady for 2010 if necessary. They moved $750,000 into the reserve, bringing its total to over $2.5 million. Therefore, we have over half of our current annual grant total available in reserve.

State Funds

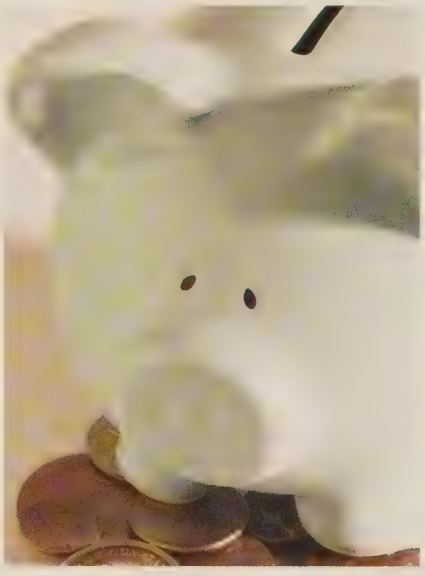
During the 2008 calendar year, NC IOLTA administered over $6.3 million in state funding for legal aid on behalf of the NC State Bar. The Equal Access to Justice Commission, Equal Justice Alliance, and the NCBA are pressing for increased state funding for legal aid to meet the needs of the poor, the number of which are increasing during this economic crisis.

Celebrating our History

NC IOLTA is celebrating its 25th anniversary in 2009. To honor the occasion, the NC State Bar *Journal* is publishing a three-part series of articles on NC IOLTA. The first article (in the spring issue of the *Journal*) focused on the program's establishment and its exceptional leadership throughout its history. The article in this issue (starting on page 27) discusses the ups and downs of IOLTA's income over the years, and the final article (in the Fall issue) will highlight the program's grant-making.

Comparability

The NC IOLTA trustees engaged a consultant to analyze our bank and account data to determine whether moving to requiring comparability of bank policies in North Carolina would provide significantly increased income. The 24 IOLTA programs that have established comparability have seen dramatically increased income as



a result.

Under comparability, attorneys are required to keep their IOLTA accounts only at banks that agree to pay the interest rate generally available to its other customers when IOLTA accounts meet the same minimum balances or other requirements. State Bar President John McMillan has made exploring comparability a goal of his presidency. The analysis of our data was presented to the State Bar's Issues Committee at the April meeting. The report showed that NC IOLTA could benefit from significantly increased income by implementing comparability. It was decided that NC IOLTA should draft a proposed rule requiring comparability, establish a dialogue with the NC Banker's Association regarding this possible change, and begin educating the bar about comparability.

Comparability FAQ

Q: What is comparability?

A comparability requirement is a revision to IOLTA rules that requires lawyers to hold their IOLTA accounts only at banks that will agree to pay IOLTA accounts the highest rate available to that bank's other customers when the IOLTA accounts meet the same

minimum balance or other account qualifications. As noted below, this concept is currently being explored in North Carolina. Some frequently asked questions about the concept follow.

Q: Does the comparability requirement regulate banks?

No. The rule regulates the behavior of attorneys by requiring attorneys to establish their trust accounts only at banks that agree to the comparability requirement. The decision to meet the requirements for attorney trust accounts would remain voluntary for the banks. Setting such a requirement by rules governing attorneys is similar to other NC State Bar requirements for banks that want to hold attorney trust accounts, such as requiring NSF notification and reporting or record retention requirements.

Q: Does comparability set interest rates or require comparing rates between banks?

No. Comparability does not set or compare rates between or among banks. Rates are set by each bank for its customers based on the factors a bank normally considers when setting rates. Comparability only requires a participating bank to pay interest rates comparable to what it already pays its similarly situated non-IOLTA customers. IOLTA will pay any resulting fees attached to the higher rate products.

Q: How will comparability be implemented with banks?

NC IOLTA will work with banks to ensure implementation and monitor compliance. Some banks will not be affected at all, as generally only high balance accounts are affected, and some banks do not offer higher rates to any customers. Also, approximately 75% of NC IOLTA accounts are held in seven banks. These banks have a presence in multiple states, some of which are comparability jurisdictions, so they are already accustomed to the requirements.

Q: What would be the impact on attorneys?

Probably none. NC IOLTA will work with each bank to provide technical assistance for implementation and compliance. Comparability states have reported that establishing the regulation has not disrupted relationships between law firms and banks as no or very few banks have chosen not to participate. In the unlikely event that a bank decides to stop participating in IOLTA, NC IOLTA will work with the attorney or law firm to move the firm's trust account to a new bank and will cover the costs for replacing checks.

Q: Why make comparability a requirement? Why not negotiate rates?

Over the years, the staff and trustees of NC IOLTA have worked to improve interest rates on IOLTA accounts in a seemingly never-ending cycle with limited success. For example, the last time there was an interest rate downturn followed by an upswing, there was a very slow increase in negotiated rates on IOLTA accounts, and they never reached the higher levels paid on other high-balance accounts. As the federal funds target rate rose from 1% to 5%, IOLTA rates remained well under 1%, while banks were paying other customers with high balance accounts over 3%.

Q: Where has comparability been implemented, and what results have been reported?

Twenty-four states (of 39 mandatory and 52 total jurisdictions) have implemented comparability—resulting in remarkable increases in income. For example, Florida, one of the first states to implement comparability, moved from $12 million in 2004, to $72 million in 2007; Texas went from $6.3 million to $20 million; and Massachusetts from $17 million to $32 million in the first year of implementation (2007).

Q: What is happening in NC regarding comparability?

- Interest in the concept has been expressed by the Equal Access to Justice Commission; NCBA Presidents Janet Ward Black and Charles Becton, and NCSB President John McMillan, who made exploring the concept a goal of his administration.
- NC IOLTA trustees engaged a consultant to produce an analysis of our program to determine whether income would increase significantly. The consultant's report found that some income increase could be expected even in the unprecedented economic times we are now in, and that significant increases could be projected for the future using low, medium, or high interest rate scenarios as applied to NC IOLTA data. Therefore, the recommendation in the consultant's analysis was that North Carolina should begin the process of changing to comparability now so it will be in place when the rate climate begins to turn around. This will significantly increase the funds available to support the bar's responsibility for ensuring equal access to justice.
- The report was presented to the IOLTA trustees and the NC State Bar Issues Committee at the April State Bar meeting.
- IOLTA staff and leadership were asked to work with State Bar leadership and staff to take the following next steps:

1) draft an IOLTA rule revision that would include comparability requirements (using resources available at the ABA which collects and reviews IOLTA rules and can comment on best practices);

2) begin a dialogue with the NC Bankers Association; and

3) begin educating the bar about the concept. ■

Bank News

Asheville Savings Bank - Effective in April, Asheville Savings Bank improved their policy on IOLTA accounts by increasing their interest rate to 1.0%. This positive change, along with their policy of waiving service charges on IOLTA accounts, places them in the group of banks providing a higher yield on IOLTA accounts as designated on the Bank List on the State Bar website. Such positive bank policies result in substantially more funds available for IOLTA grants.

As of February, ***North State Bank*** began waiving service charges on IOLTA accounts. Prior to the change, their service charges had been exceeding the interest earned, resulting in no remittance to the IOLTA Program. We are pleased to be receiving a monthly remittance from North State now.

The NC IOLTA program will be contacting banks that do not waive service charges to make sure they understand how service charges are to be applied to IOLTA accounts. NC IOLTA only pays routine service charges, such as monthly maintenance fees, per item deposit fees, per item check fees, etc. IOLTA *does not* pay for check printing costs, remote capture costs, wire transfer fees, NSF fees, or stop payment fees, which are considered business expenses or costs billable to others. A lawyer may deposit funds into the trust account to cover these charges, or the bank can charge the fees to the lawyer's operating account or bill the lawyer separately.

Profiles in Specialization—Jennifer and Rayford (Trip) Adams

An Interview by Denise Mullen, Assistant Director of Legal Specialization

I recently had the opportunity to talk with Jennifer Adams and her father, Rayford (Trip) Adams III, both board certified specialists in Greensboro. Trip graduated from Davidson College and Wake Forest Law School and Jennifer, following in his footsteps, did the same 22 years later. Trip gained his certification in both business and consumer bankruptcy law in 1987, and Jennifer attained her board certification this year in the same specialty areas. Here are some of their comments about the specialization program and the impact it has had on their careers.

Q: Why did you pursue certification?

Trip: I was in the first group to sit for the specialization exam in 1987. I thought that the certification idea and process made great sense. I had a few colleagues who were on the initial Specialization Committee who encouraged me as well.

Jennifer: I have a lot of colleagues, including Trip, who are certified and told me that I must get certified when I was eligible. For me, it was the next logical step in my career. I was active in the bankruptcy section and the American Bankruptcy Institute, taking continuing legal education courses in bankruptcy, and writing articles for the section newsletter. Gaining the certification was the next step in advancing my career.

Q: Jennifer, I noticed that you call your father "Trip." How is it working in a father/daughter practice?

Jennifer: I love working with my father. I've learned to separate our professional relationship from our family one as well. At work, I refer to him as Trip and at family get-togethers, I still call him dad. It took a couple of years for that to feel natural, but now it does.

I'm also really glad that I did go away for two years to clerk at the North Carolina Court of Appeals. It allows me to really appreciate this situation for what it is now. When Trip says that I did a good job on something, or that I need to make some changes, I can appreciate that the compliments are coming from an attorney that I respect. His comments are meaningful to me on two levels. I love learning from him and I love doing the same thing, but also doing things a bit differently.

Trip: It has been great to have another specialist as a partner. I have learned things from Jenny, particularly since she handles consumer as well as business bankruptcy cases. She has developed a nice practice and I consider her to be the brains of the outfit!

Q: Has certification been helpful to your practice?

Trip: It has been very helpful to be a part of the group of bankruptcy specialists. By definition, we are all committed to this practice area and devote a significant portion of our practices to bankruptcy. We have a presence in the bankruptcy bar and we know that each of us is tuned in to what's happening in the practice area.

Jennifer: One of the most important reasons that I became a specialist was for the camaraderie of other attorneys who are already certified. I get a lot of referrals from other specialists as well as creditors' attorneys who are against me in some cases. We also work with business attorneys who know that, as specialists, we will help their clients with their bankruptcy issues only. There's no concern that we would try to provide other services or that the client may not come back. We provide very specialized services to our clients.

Q: Who are your best referral sources?

Trip: Besides other bankruptcy attorneys, or business and family attorneys, accountants are also a good source of referrals to our office. I speak periodically to groups of certified public accountants and they are often the first to know that their clients are in trouble.

Jennifer: I've been active the past few years in the bankruptcy section council of the NC

Bar Association, speaking at continuing legal education programs, and have received many calls from other lawyers seeking assistance who attended those seminars. Our practice has gained a reputation for handling difficult or quirky bankruptcy cases, both consumer and business.

Q: How does your certification benefit your clients?

Jennifer: The litigation and collections attorneys in this area know that we are bankruptcy specialists, and beyond that that we are experienced in handling cases through to their conclusion, including negotiation and litigation. In many cases, this gives the attorney on the other side some incentive to negotiate. Letting creditors know that they are working with a board certified bankruptcy attorney can also be an effective motivation for a full exploration into ways to resolve the situation.

Trip: We are good at what we do in the practice. Board certification is a reflection of our experience in this practice area and the way we handle our cases.

Q: Are there any hot topics in your specialty area right now?

Jennifer: The bankruptcy code in general continues to be a hot topic. As bankruptcy law is a federal practice, we are constantly looking at other jurisdictions for changes in application or interpretation. In addition, national and political interests are seeking changes, particularly in Chapter 13 cases, to assist homeowners.

Trip: The major revisions to the bankruptcy code are three years old and we are now starting to see decisions on appeals and meaningful case law. It's critical to keep up with the changes to serve clients well.

Q: Is certification important in your practice area?

Jennifer: When we are facing another board certified specialist in court or even in pre-trial negotiations, we can count on things running smoothly. We know that they understand the issues involved as well as the limitations we face, and that we may be able to come to an agreement that avoids filing for bankruptcy.

Q: How does specialization benefit the public or the profession?

Trip: Board certification benefits both directly. The specialization program and process work well to the extent that when you look in the directory you see the names of the top lawyers in that practice area, not names that you don't recognize. Clients who use the directory or website to select a lawyer will find one who does not dabble in the practice area; rather, they will find a lawyer who has devoted him/herself fully. That decision to concentrate your practice helps raise the competence level of the bar as a whole.

Q: How has your certification been a part of shaping your legal career?

Jennifer: I chose to become a board certified specialist in both consumer and business bankruptcy law because I really do enjoy this work. I feel good about my work with clients. My goal, every day, is to help my clients go home feeling and sleeping better, to help them take control of the situation and start to see improvement. I also really enjoy my involvement in this practice area. I have a fantastic group of colleagues who get together regularly to share ideas and help each other. Growing up with my father as a lawyer, I never understood lawyer jokes. My experience has been that the bankruptcy bar is very cordial, professional, and dedicated. I am proud to be a part of it.

Q: What would you say to encourage other lawyers to pursue certification?

Trip: I am well aware that many lawyers leave the bar exam saying that they'll never take another exam, as I did. But this is an exam in your practice area and if you have the experience, the exam is a lot less intimidating than you might think. It's a test that covers things you see every day.

I have always been a big fan of the specialization program, for what it does for the public and especially for the bar. I encourage lawyers to seek the specialist designation and to be involved in a program that provides real benefits, even in intangible ways. ■

For more information on the State Bar's specialization program, please visit us on the web at www.nclawspecialists.gov.

In Memoriam

Joseph B. Alala Jr.
Gastonia

John T. Allred Sr.
Charlotte

Troy T. Barnes Jr.
Ocean City, MD

Wade E. Brown
Boone

Amy D. Byrd
Winston-Salem

Jesse M. Cline
Pineville, WV

Ben N. Cole
Henrietta

James A. Corriher
Salisbury

Daniel R. Dixon II
Wilmington

Kenneth R. Downs Sr.
Pineville

Philip E. Gerdes
Charlotte

Joseph L. Hutcherson II
Monroe

Reef C. Ivey II
Raleigh

Cyrus F. Lee
Wilson

James E. Long
Raleigh

Susan I. McCrory
Charlotte

Ann L. McKenzie
Baltimore, MD

Louis W. Nanney Jr.
Spindale

Frederick D. Poisson Sr.
Wadesboro

Alfred F. Welling Jr.
Charlotte

Henry H. Wilson III
Charlotte

Jack L. Wilson Jr.
Burnsville

Marvin R. Wooten
Lincolnton

Bob D. Worthington
Kinston

Sarah Powers


Green with Crane

My painting process is a cycle creating images, arranging elements, and editing information. I start my work with a collage of photographs, drawings, and bits of paper and then glue it all together onto the canvas, board, or Plexiglas. Acrylic medium poured over the top make a new smooth transparent surface, which clouds the collage beneath. Over that I then draw and add pigment. Then to get rid of extra information, I pour another layer of medium and paint over that, leaving a little less each time. The acrylic also allows me to experiment with texture, and its transparency allows some of what's beneath to be seen.

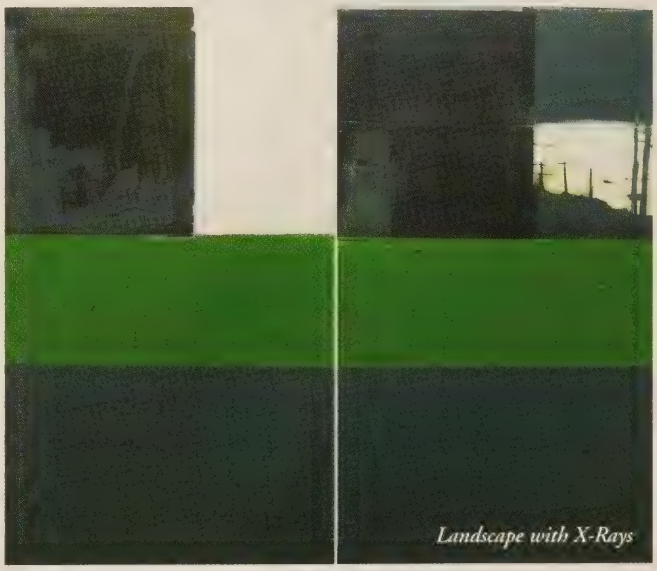
When I'm finished with a piece, little of the original drawing and collage remains. The busiest parts are edited out to leave just the essence of the landscape. The piece is done when I start to see the image through a cloudy lens, like looking out a frosty window on a snowy day.

The places in the world that I like best, where I feel the most satisfied, are places that are the most minimal—the sparsest of places. I grew up where the land is flat and the landscape is industrial or agricultural. Because the trees are bare and the ground is white most of the year, the palate is limited to grey, brown, blue, and white. Today, in the midst of my busy life in the very leafy city, I try to recreate this simplicity.

Sarah Powers is a graduate of the Rhode Island School of Design. Her work has been featured in galleries across the United States including Rhode Island's RISD Works and the Sarah Doyle Gallery at Brown University. In North Carolina, her work has appeared in The Collectors Gallery, Long View Gallery, Vision Gallery, and Artspace.

Powers's mixed media work focuses on industrial and rural landscapes and landscape detail. According to the *Providence Phoenix*, the artist's "use of minimalist simplicity, evident in both her technical and conceptual approach, is combined with arbitrary objects of our everyday world to create an elusive yet captivating scenario that seems impossible to forget." Push pins, x-rays, and small-scale people are some of the "arbitrary objects" that she has added to her paintings recently. "The little tiny people come from two influences," says Powers. "I've always been interested in human scale, especially in the industrial and commercial landscape, and the idea of how small we are compared to our landscape. Putting the very small figures into the work is a way to communicate this. Secondly,...[m]y background in landscape architecture consisted of many model making hours and using these ties back to that training."

Powers was awarded a United Arts Council of Raleigh and Wake County Regional Project Grant award. She was recently selected as one of the 12 artists working on the Bain Project, a site-specific multi-media installation scheduled to open in May 2009 in Raleigh's historic E.B. Bain Waterworks on south Fayetteville Street. ■


Landscape with X-Rays

Each quarter, the works of a different contemporary North Carolina artist are displayed in the storefront windows of State Bar building. The artworks enhance the exterior of our building and provide visual interest to pedestrians passing by on Fayetteville Street. The State Bar is grateful to The Collectors Gallery, the artists' representative, for arranging this loan program. The Collectors Gallery is a full service gallery that represents national, regional, and North Carolina artists, and provides residential and commercial consulting. Readers who want to know more about an artist may contact Rory Parnell or Megg Rader at TCG, 323 Blake Street, Raleigh, NC 27601 (919.828.6500).

Two Stories

By Anonymous

One of the difficulties for people suffering from depression or addiction is that their disorders distort how they see themselves. In other words, these mental health disorders make it very difficult for a suffering lawyer to understand how he or she is being affected. These diseases prevent rational insight. Emotional insight, however, into how one is being affected is still possible. Oftentimes, this occurs through hearing the stories of other people who have been similarly affected. In that spirit, we offer two short stories by PALS volunteers. These short vignettes reflect how their lives were affected by alcohol and what happened, and are presented anonymously. If you would like to speak with one of the authors about what happened in their lives and how their experience might be helpful to you, please send me an e-mail and I will forward it to the author . (Don Carroll—nclap@bellsouth.net)

The Light Below the Nothingness

As the child of a hard drinking air force pilot, it never occurred to me that an adult could have a life—social or solitary—without alcohol. Of course, I vowed not to be like my father and need alcohol so much. Or, if I did drink too much, I swore I would be funny and not so mean. The whole family avoided him whenever possible and simply endured when cornered. My mother frequently asserted that he could stop if he just had the willpower and made the choice, and I was sure self-control was all it would take.

Fast forward to the early 1960s and there I was in graduate school studying a French philosopher for whom a tiny void, a nothingness at the core of each of us, relentlessly seeks to solidify itself into a role, a job, a character, a personality. I recoiled from such a picture of the human condition and I desperately sought arguments to refute him. But, in honesty, I experienced myself as just that—a void at the center of a social persona I had constructed out of roles others wanted for me. I projected a good daughter, a diligent student, a proper young lady. I felt like a fraud. There was no authentic self in me.

Skip ahead again to the 1970s and I'm a mother wanting to provide faith for two small sons, but unable to give what I haven't got. I try lots of churches and, once, prayer takes me into the "light" for a few brief moments, but I can't find a reliable way back to it afterwards.

Finally, it's the 1980s and I'm deeply depressed by the loss of an academic job I dearly loved, and I'm drinking a lot. I'm sinking into spiritual molasses at home and the only way out seems to be a new career. I get a scholarship to law school and begin a checkerboard existence of daily commuting to classes, intensely focusing to drag myself out of a mental inertia long enough to read a few law cases, drowning my emotional turmoil in wine in the evening, and falling into bed just as the wine completes its job. By the middle of the 1980s I have the law degree and a job. But my life and my family are crumbling. My teenage sons are troubled and drinking. My husband has moved out. I'm burdened with a huge mortgage on the lake house we bought to "save" the marriage. And I'm waking up in the night overwhelmed by the sense of being abandoned in the universe and drifting further and further away from all I hold dear.

A friend in whom I confided directed me to a counselor who offered to take me to an AA meeting. I heard myself described in the first step,[1] and I yearned for the life offered in the promises.[2] Within a few weeks I entrusted my problems to whatever higher power there may be, and I decided that my understanding of that power would emerge from the way those problems were resolved.

Six months later I realized one evening that I hadn't thought about drinking all day. Gradually, I also realized that my sons were getting their lives on track. I was able to sell the house on the lake and to buy a smaller home in Charlotte nearer my work and my new friends. I continued with the counselor, the AA meetings, and the steps, and the internal miracle was even greater than the external ones. I found an inner light where there had been a void, and I discovered I could always access it with the help

of the steps. My understanding of my higher power became that of a being who seeks freedom, well-being and growth.

My single greatest challenge during the next two decades was trying to practice AA principles in my legal work. How to trust while working in a profession where one person's mistake is another's opportunity? How to be serene when missing a deadline or messing up could spell disaster for me and my client? How to be honest with clients who didn't want to hear the truth? How to be humble without inviting an adversary to walk all over me and my client? How to be "of service" in the face of the almighty billable hour? How to preserve anonymity when I needed it, but also to discern when it would be helpful to break it? Some days demanded answers to all of those questions. But, if I paused and sought guidance, answers came—sometimes from within, sometimes from outside me—but they did come. I don't feel hollow anymore. ■

Endnotes

1. Step 1: We admitted we were powerless over alcohol—that our lives had become unmanageable.
2. If we are painstaking about this phase of our development, we will be amazed before we are halfway through. We are going to know a new happiness. We will not regret the past nor wish to shut the door on it. We will comprehend the word serenity and we will know peace. No matter how far down the scale we have gone, we will see how our experience can benefit others. That feeling of uselessness and self-pity will disappear. We will lose interest in selfish things and gain interest in our fellows. Self-seeking will slip away. Our whole attitude and outlook upon life will change. Fear of people and economic insecurity will leave us. We will intuitively know how to handle situations which used to baffle us. We will suddenly realize that God is doing for us what we could not do for ourselves.

CONTINUED ON PAGE 62

Grievance Committee and DHC Actions

Disbarments

William Eugene Butner of Hickory was disbarred by the DHC. Butner was convicted by a federal jury of one count of committing an offense against the United States and one count of concealment of assets in a bankruptcy proceeding. The disbarment was effective May 5, 2003, the effective date of Butner's interim suspension.

Suzanna Garza of Charlotte was disbarred by the DHC. Garza lied to the court, misappropriated entrusted funds, altered a driving record by deleting a DWI conviction, and provided the altered driving record to an assistant district attorney to support a proposed plea agreement.

Benita W. Gibbs of Cary surrendered her law license and was disbarred by the State Bar Council. Gibbs misappropriated entrusted funds.

Demetrius G. Rainer of Charlotte was disbarred by the Wake County Superior Court. Rainer pled guilty to four federal counts of loan, wire, bank, and mail fraud and money laundering.

Durham lawyer **David Curtis Smith** surrendered his law license and was disbarred by the State Bar Council. Smith misappropriated entrusted funds.

The Wake County Superior Court disbarred Charlotte lawyer **Troy Anthony Smith**. Smith pled guilty to four federal counts of loan, wire, bank, and mail fraud, and money laundering.

Victoria L. Sprouse of Charlotte surrendered her law license and was disbarred by the State Bar Council. Sprouse was convicted in federal court of multiple felony counts of mail, wire, and bank fraud, conspiracy, and money laundering.

Suspensions & Stayed Suspensions

The DHC suspended **Robert Brown Jr.** of Durham for five years for sexually harassing several employees when he was Durham County Public Defender. After serving three years of active suspension, Brown may petition to have the remaining two years stayed upon compliance with numerous conditions.

Jamestown lawyer **Bonnie Lee C. O'Neal** was suspended for one year by the DHC. The suspension is stayed for three years on numerous conditions. O'Neal neglected and failed to communicate with multiple clients.

Kenyann B. Stanford of Raleigh was suspended for five years. Stanford misappropriated money from and lied to her law partners.

Censures

The Grievance Committee censured **Larry G. Hoyle** of Gastonia for having *ex parte* communications with a judge in an effort to obtain an amended order, failing to act with diligence in seeking the amendment, failing to inform current opposing counsel of his efforts to get the order amended, and falsely reporting to the judge that former opposing counsel consented to the amendment.

Michael J. Parker of Mocksville was censured by the Grievance Committee for misconduct in connection with his own purchase of real property. Parker improperly prepared documents, misrepresented to the closing lawyer that those documents protected the lender's interests, and improperly distributed a portion of the closing proceeds directly to the seller of the property.

Reprimands

Max Ballinger of Greensboro was reprimanded by the DHC. Ballinger obstructed the entry of a consent judgment after the parties had settled a case.

The Grievance Committee reprimanded Lexington lawyer **James C. Cunningham** for filing a civil action against a former client before the Bar's fee dispute resolution process was completed, charging excessive fees, and charging for time spent obtaining the court's permission to withdraw from the client's case.

The Grievance Committee reprimanded **Michael A. DeMayo** of Charlotte for violations in direct mail solicitations, including utilizing a larger font for his letterhead than for the disclaimer "THIS IS AN ADVERTISEMENT FOR LEGAL SERVICES" and improperly suggesting that the lawyers employed in his office were "specialists."

Charlotte lawyer **Paul Hemphill** was reprimanded by the Grievance Committee for failing to pursue two clients' cases, failing to communicate with those clients about the status of their cases and about a settlement offer, withdrawing from the representation without notice to the clients or the court, and failing to respond to the State Bar.

Rachel Lee Hunter of Cary was reprimanded by the DHC for referring to herself as "Madame Justice" on her campaign website after the Grievance Committee issued a Letter of Warning telling her that the reference was misleading and a Rule violation.

Kathryn M. Kelling of Charlotte was reprimanded by the Grievance Committee for failing to hold a deed in trust and failing to comply with her fiduciary duties as escrow agent.

High Point lawyer **Stephen F. Wallace** was reprimanded by the Grievance Committee for filing an amended complaint to circumvent a court order granting summary judgment and for attempting to settle the case with a *pro se* defendant who did not understand that he had no legal obligation to Wallace's client after the case was dismissed.

Petitions for Reinstatement

David Harless of West Virginia has petitioned the DHC to be reinstated from disability inactive status. The hearing is scheduled for July 17, 2009.

Disability Inactive Status

Christopher Todd Rhodes of Winston-Salem, and Chapel Hill lawyer **Orrin R. Robbins**, were transferred to disability inactive status by the chairman of the Grievance Committee. ■

Committee Revises Earlier Opinion on Including Verdict Information on Website

Council Actions

At a meeting on April 24, 2009, the State Bar Council adopted the opinions summarized below upon the recommendation of the Ethics Committee:

2008 Formal Ethics Opinion 12

Initiating Foreclosure Proceedings Against Client

Opinion rules that a lawyer may not initiate foreclosure on a deed of trust on a client's property while still representing the client.

2009 Formal Ethics Opinion 2

Responding to Unauthorized Practice of Law in Preparation of a Deed

Opinion rules that a closing lawyer who reasonably believes that a title company engaged in the unauthorized practice of law when preparing a deed must report the lawyer who assisted the title company, but may close the transaction if the client consents and doing so is in the client's interest.

2009 Formal Ethics Opinion 4

Credit Card Account that Avoids Commingling

Opinion rules that a law firm may establish a credit card account that avoids commingling by depositing unearned fees into the law firm's trust account and earned fees into the law firm's operating account provided the problem of chargebacks is addressed.

2009 Formal Ethics Opinion 5

Reporting Opposing Party's Citizenship Status to ICE

Opinion rules that a lawyer may serve the opposing party with discovery requests that require the party to reveal her citizenship status, but the lawyer may not report the status to ICE unless required to do so by federal or state law.

Ethics Committee Actions

At its meeting on April 23, 2009, the Ethics Committee voted to send the following proposed opinions to subcommittees for further study: Proposed 2008 FEO 11, *Representation of Beneficiary on Other Matters While Serving as Foreclosure Trustee*, and Proposed 2009 FEO 3, *Non-Lawyer Employee Contacting Clients of Former Employer*. Proposed 2008 FEO 16, *Advising a Client About Litigation Funding Agreement*, was tabled pending a decision by the North Carolina Supreme Court in a relevant case. Proposed 2009 FEO 1, *Review and Use of Metadata*, was returned to the staff for editorial revision. One proposed opinion, previously published in the *Journal*, was revised and appears below. Two new proposed opinions are also published for comment. The comments of readers are welcomed.

Proposed 2008 Formal Ethics Opinion 13
Audit of Real Estate Trust Account by Title Insurer
April 23, 2009

Proposed opinion rules that, unless affected clients expressly consent to the disclosure of their confidential information, a lawyer may allow a title insurer to audit the lawyer's real estate trust account and reconciliation reports only if certain written assurances to protect client confidences are obtained from the title insurer, the audited account is only used for real estate closings, and the audit is limited to certain records and to real estate transactions insured by the title insurer.

Inquiry #1:

Under North Carolina law, title insurance policies are issued upon receipt of title certification from a licensed North Carolina lawyer. A title insurer will only issue title assurances to approved lawyers as provided by N.C. Gen. Stat. §58-26.1. In the vast majority of real estate closings, the lender delivers the proceeds of the new loan (for the purchase or refinancing of the real estate) to the approved lawyer to be disbursed from the approved lawyer's trust account upon the closing of the transaction. Lenders and buyers/borrowers in real estate transactions frequently request title insurance coverage in the form of a closing protection letter in which the title insurer agrees to reimburse the lender and/or the buyer/borrower for, among other things, actual loss on account of the fraud or dishonesty of the approved lawyer in handling the lender's funds. Closing protection letters are necessary to facilitate real estate transactions in North Carolina as lenders are unwilling to risk their funds without these assurances from title insurers.

Title insurers are experiencing increasing liability for lawyer defalcations pursuant to closing protection letters and title insurance policies issued in connection with real estate transactions. In addition, parties to real estate transactions who are not covered by title insur-

Rules, Procedure, Comments

All opinions of the Ethics Committee are predicated upon the Rules of Professional Conduct as revised effective March 1, 2003, and thereafter amended, and referred to herein as the Rules of Professional Conduct (2003). The proposed opinions are issued pursuant to the "Procedures for Ruling on Questions of Legal Ethics." 27 N.C.A.C. ID, Sect .0100. Any interested person or group may submit a written comment or request to be heard concerning a proposed opinion. Any comment or request should be directed to the Ethics Committee at PO Box 25908, Raleigh, NC 27611, prior to the next meeting of the committee in July 2009.

Captions and Headnotes

A caption and a short description of each of the proposed opinions precedes the statement of the inquiry. The captions and descriptions are provided as research aids and are not official statements of the Ethics Committee or the council.

Public Information

The Ethics Committee's meetings are public, and materials submitted for consideration are generally NOT held in confidence. Persons submitting requests for advice are cautioned that inquiries should not disclose client confidences or sensitive information that is not necessary to the resolution of the ethical questions presented.

ance are suffering losses related to the misuse of funds deposited in real estate trust accounts.

To provide the assurances required by lenders and buyer/borrowers, title insurers need a way to assess whether funds from real estate trust accounts are being disbursed and accounted for properly. Real estate lawyers may use outside reconciliation services to reconcile their trust accounts. Title insurers would like to request either an audit of an approved lawyer's trust account and/or review of the lawyer's trust account reconciliation reports to ensure the safety of the funds and protect the interests of those whose funds are placed in the trust account and rely upon the appropriate disbursement of those funds.

Lawyer A is an approved lawyer with Title Insurer. Title Insurer has issued at least one closing protection letter for Lawyer A. May Lawyer A voluntarily permit Title Insurer to audit his trust account?

Opinion #1:

Yes, Lawyer A may voluntarily permit Title Insurer to audit any trust account used solely for real estate closings provided the audit is limited to transactions insured by Title Insurer and, further provided, Lawyer A obtains certain assurances from Title Insurer.

Rule 1.6 requires a lawyer to protect from disclosure all information acquired during the professional relationship including information about a client contained in the lawyer's trust account records. Nevertheless, confidential information may be revealed when the client gives informed consent, disclosure is impliedly authorized to carry out the representation, or a specific exception allowing disclosure set forth in paragraph (b) of Rule 1.6 applies. Although the specific exceptions are not applicable here, the general exception that permits disclosure to carry out the representation is applicable. A self-evident objective of both the lender and the buyer/borrower, the clients in a real estate transaction, is that the loan proceeds will be used for the purpose for which they were intended and not misused or misappropriated by the closing lawyer. Therefore, there is implied consent by real estate clients to disclose such information as may be necessary to prevent defalcations including information necessary for a title insurer to perform an audit of the lawyer's trust account.

It cannot be assumed that non-real estate clients impliedly authorize the disclosure of confidential information about their deposits to a lawyer's general trust account to a title insurance company. Moreover, it cannot be assumed that a real estate client's implied consent extends to title companies that did not insure the client's transaction. Absent the express consent of those clients whose confidential information may be disclosed, a lawyer may only allow an audit that is limited to certain financial records related to a trust account used solely for real estate closings and to certain financial records related to real estate transactions insured by the title insurer. Specifically, the audit must be limited to review of the following records on the trust account: bank statements and deposit tickets for three months (not including copies of checks); reconciliation reports for three months (confidential client information redacted); and the general ledger for six months (names of payees redacted). The audit shall also be limited to the following records of real estate transactions insured by the title insurer: copies of cancelled checks; copies of deposited checks; cash receipts (if any); disbursement receipts; closing instructions; settlement statements (all drafts and final versions); pay-off statements; wiring instructions and wire confirmations; all recorded documents; the client-specific ledger; and the bank statement from any open interest-bearing account used for the transaction.

This opinion can be distinguished from 98 FEO 10 which holds that an insurance defense lawyer may not disclose confidential information about an insured's representation in bills submitted to an independent audit company at the insurance carrier's request unless the insured consents. That opinion provides that a lawyer should not ask for the consent of the insured "[w]hen the insured could be prejudiced by agreeing and gains nothing" such that "a disinterested lawyer would not conclude that the insured should agree in the absence of some special circumstance." 98 FEO 10 presumes that the interests of the insured and the insurance carrier relative to the payment of legal fees are in conflict because the insured wants the best defense money can buy and the insurance carrier wants to limit its expenditures on legal fees. This is not the case with regard to audits of real estate trust accounts where a title insurer's interest in preventing the theft of closing funds by a lawyer can be presumed to be the same as that of the buyer and the seller of the property. Another distinction resides in the type of information that would be obtained in an audit of a bill for legal services and in the audit of trust account records for a real estate closing. The legal bill often contains detailed information about the representation which is clearly confidential and may also be privileged under the law of evidence. Although the limited client information gained in an audit of a real estate trust account is confidential, it is probably not privileged.[1] Therefore, the risk that the privilege will be waived as a consequence of the audit is remote.

To further protect confidential client information during the audit process, prior to an audit, Lawyer A must obtain written assurances from the title insurer of the following: (1) the information disclosed will be used for no other purposes than to confirm the proper use of funds and the lawyer's compliance with the trust accounting requirements in Rule 1.15; (2) the information will not be used by the title insurer for marketing or business purposes other than risk management; (3) access to the information will be limited to those employees of the title insurer who need the information to make risk management decisions; and (4) the disclosed information will not be shared with any third party except the State Bar and, in the event a defalcation is discovered, the information will be disclosed to the State Bar or other appropriate authorities. *See* Rule 1.15. Regardless of the title insurer's duty to report evidence of a defalcation to the State Bar, any North Carolina lawyer who has such knowledge is also required to report to the State Bar pursuant to Rule 8.3(a).

Although Lawyer A must obtain title insurer's written assurances relative to protecting confidential client information, he is not prohibited from allowing the title insurer's conclusions as a result of the audit to be released to a third party such as another title insurer.

Inquiry #2:

May Lawyer A voluntarily permit Title Insurer to examine and review Lawyer A's rec-

onciliation reports whether generated by Lawyer A and his staff, or generated by an outside reconciliation service employed by Lawyer A?

Opinion #2:

Yes, provided the reconciliation reports are for a trust account that is used solely for real estate closings and the required written assurances from the title insurer set forth in opinion #1 are obtained. *See* opinion #1 above.

Inquiry #3:

Title Insurer conditions designation as an approved lawyer on the lawyer's agreement that Title Insurer may audit the lawyer's trust account and review the lawyer's reconciliation reports upon request. May a lawyer seek designation as an approved lawyer for Title Insurer?

Opinion #3:

Yes, provided the audit is limited to trust accounts, or the reconciliation reports therefore, that are used solely for real estate closings and the required written assurances from the auditor and the title insurer set forth in opinion #1 are obtained. *See* opinion #1 above.

Inquiry #4:

Would the responses to any of the preceding inquiries be different if multiple lawyers in the same firm use the same real estate trust account?

Opinion #4:

No.

Inquiry #5:

As noted above, many real estate lawyers use outside reconciliation services to reconcile their trust accounts. Is this practice permitted under the Rules of Professional Conduct?

Opinion #5:

Yes, a lawyer may delegate reconciliation to a company or to a non-lawyer who is not employed in the lawyer's firm provided the lawyer makes reasonable efforts to ensure that the person(s) providing the reconciliation services understands the lawyer's professional duties with regard to the management of the trust account under Rule 1.15 and also with regard to the protection of client confidences under Rule 1.6. The lawyer remains professionally responsible for the proper management and reconciliation of the account. *See* Rule 5.3.

Endnote

1. A privilege exists if (1) the relation of attorney and client existed at the time the communication was made, (2) the communication was made in confidence, (3) the communication relates to a matter about which the attorney is being professionally consulted, (4) the communication was made in the course of giving or seeking legal advice for a proper purpose although litigation need not be contemplated, and (5) the client has not waived the privilege. It is, however, a qualified privilege subject to the general supervisory powers of the trial court. *State v. McIntosh*, 336 NC 517, 444 S.E.2d 438 (1994).

Proposed 2009 Formal Ethics Opinion 6 Including Information on Verdicts and Settlements on a Website April 23, 2009

Proposed opinion rules that a website may include a "case summary" section if there is sufficient information about each case included on the webpage to comply with Rule 7.1(a).

Inquiry:

Is it possible for a law firm to include on its firm website a section showcasing successful verdicts and settlements without violating Rule 7.1(a)(2)?

Opinion:

Yes. Rule 7.1 provides that a lawyer "shall not make a false or misleading communication about the lawyer or the lawyer's services." The rule further provides that a communication is false or misleading if it "is likely to create an unjustified expectation about results the lawyer can achieve." Rule 7.1(a)(2).

The issue is whether a law firm can provide information on its past successes without creating unjustified expectations. Comment [3] to Rule 7.1 provides that an advertisement that truthfully reports a lawyer's achievements may be misleading "if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal circumstances of each client's case."

2000 FEO 1 provides that statements about a lawyer's or a law firm's record in obtaining favorable verdicts is permissible if the information is provided in context. According to the opinion, the context would have to include the following:

> disclosure of the lawyer's or firm's history of obtaining unfavorable, as well as favorable, verdicts and settlements; the lawyer's or firm's success in actually collecting favorable verdicts; the types of cases handled and their complexity; whether liability and/or damages were contested; and whether the opposing party or parties were represented by legal counsel. In addition, the verdict record must disclose the period of time examined. Finally, the communication must include a statement that the outcome of a particular case cannot be predicated upon a lawyer's or a law firm's past results.

2000 FEO 1.

In 2000 FEO 1, the Ethics Committee found that subjective statements about a law firm's successes were misleading. The committee further concluded that the webpage in question did not provide enough explanation of the law firm's record to avoid misleading a visitor to the website and that it was necessary for the law firm to provide a complete record on the website or by mail upon request, disclosing the information set forth in the above quote, to bring the webpage into compliance with the requirements of the Rules of Professional Conduct. The webpage in 2000 FEO 1 did not contain summaries of successful cases, but rather a paragraph generally describing the firm's achievements. The paragraph also did not make reference to the specific factual and legal circumstances of each client's case.

The consumer of legal services benefits from the dissemination of accurate information in choosing legal representation. *See* D.C. Legal Ethics Comm., Op. 335 (2006). Lawyers also benefit from the dissemination of accurate information when seeking to enlist the aid of co-counsel in a particular matter. A consumer researching law firms on the internet expects a law firm's website to include information about the firm's past successes, and many firm websites currently include a "verdict and settlements" section. The law firm's duty is to provide that information to the consumer without creating an unjustified expectation about the results the lawyer can achieve. However, the requirements set out in 2000 FEO 1 may be so burdensome that they discourage lawyers from providing any information about verdicts and settlements and thereby effectively prevent consumers from getting helpful information.

Therefore, a website may include a "case summary" section if there is sufficient information about each case included on the webpage to comply with Rule 7.1(a). Some of the required disclosures set out in 2000 FEO 1 should be included in the case summary

section of the website. The summary should reference the complexity of the matter; whether liability and/or damages were contested; whether the opposing party was represented by legal counsel; and, if applicable, the firm's success in actually collecting the judgment. Providing specific information about the factual and legal circumstances of the cases reported, in conjunction with the inclusion of an appropriate disclaimer, precludes a finding that the webpage is likely to create unjustified expectations or otherwise mislead a prospective client.

2000 FEO 1 is overruled to the extent it is inconsistent with this opinion.

Proposed 2009 Formal Ethics Opinion 7
Interviewing a Child Witness
April 23, 2009

Proposed opinion rules that a prosecutor or a criminal defense lawyer may interview a child who is the victim of or witness to a crime provided the lawyer complies with Rule 4.3, reasonably determines that the child is sufficiently mature to understand the lawyer's role and purpose, and avoids any conduct designed to coerce or intimidate the child.

Inquiry #1:

Attorney A represents a criminal defendant on a charge of taking indecent liberties with a child. To prepare for trial, Attorney A would like to interview the child who is the victim of the alleged crime. The child is not a party to the criminal action. She does not have a lawyer and a guardian ad litem has not been appointed to represent her interests. May Attorney A interview the child without the consent of the child's parent or legal guardian?

Opinion #1:

Yes, provided Attorney A respects the rights of the child and there is no legal requirement that the consent of the parent or legal guardian be obtained. *See* RPC 61 (defense lawyer may interview child victim of molestation without knowledge or consent of district attorney).

It is Attorney A's professional duty to prepare competently and diligently to defend the client; *a priori,* in most cases, this includes interviewing the victim of the alleged crime if the victim will consent to the interview. Nevertheless, a child may not have the emotional or intellectual maturity to make an informed decision about whether to consent to the interview, or the emotional or intellectual maturity to understand the role of the lawyer or the purpose of the interview.

Rule 4.3(b) states that, when dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not

> state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.

As noted in comment [1] to Rule 4.3, "[a]n unrepresented person, particularly one not experienced in dealing with legal matters, might assume that a lawyer is disinterested in loyalties or is a disinterested authority on the law even when the lawyer represents a client."

Many children are inexperienced in legal matters and will not understand the role of a criminal defense lawyer who seeks an interview. Many children will naively defer to the defense lawyer because he or she is an adult. Many children will be easily mislead or subject to the undue influence of an authority figure such as a lawyer. For these reasons, a criminal defense lawyer who seeks to interview the child victim of a crime must make a reasonable determination of whether the child is sufficiently mature to understand, when disclosed by the lawyer, (1) the role of the lawyer, (2) who the lawyer represents, (3) the purpose of the interview, and (4) that the child is at liberty to refuse to be interviewed. If the lawyer cannot reasonably conclude that the child is sufficiently mature, both emotionally and intellectually, to understand these four things, the lawyer may not interview the child unless a legal guardian or parent consents. If the conduct of the legal guardian or the parent toward the child is at issue in the criminal case, consent must be obtained from a guardian ad litem, a court, or other appropriate person or entity with authority to give consent. *See* opinion #3.

Rule 3.4(b) prohibits a lawyer from counseling or assisting a witness to testify falsely. This includes making improper suggestions or offering inducements that might lead a naïve and vulnerable child to change or alter her or her testimony. Although a lawyer may reasonably conclude that a child is sufficiently mature to consent to the interview, the lawyer may not engage in emotional manipulation or other forms of undue influence, coercion, or intimidation that may inhibit or alter the witness's testimony.

Although a communication without the consent or knowledge of the child's parent or guardian may be allowed under this opinion, a lawyer should err on the side of giving notice to the parent or guardian—and preferably obtaining the consent of the parent or guardian—unless circumstances are such that the lawyer has a good faith belief that the child's candor may be affected by the knowledge of the parent.

Inquiry #2:

May the prosecutor interview the child who is the alleged victim of the crime?

Opinion #2:

Yes, subject to the same constraints set forth in opinion #1.

Inquiry #3:

The defendant is the child's parent or legal guardian and is accused of conduct that, if proven, would constitute abuse or neglect of the child. May the defendant's criminal defense lawyer interview the child subject to the constraints set forth in opinion #1?

Opinion #3:

In most instances of alleged child abuse or neglect, a guardian ad litem (GAL) and an attorney advocate are appointed to represent the child. RPC 249 prohibits a lawyer from communicating with a child who is represented by a GAL and an attorney advocate unless the lawyer obtains the consent of the attorney advocate. If a GAL has not been appointed for the child, the lawyer may interview the child subject to the constraints set forth in opinion #1.

Inquiry #4:

Attorney B is defending a child in a delinquency proceeding. She would like to interview another child who witnessed the events giving rise to the delinquency charge. However, it would be detrimental to the child witness for his parents to know that he was present when and where the events occurred. May Attorney B interview the child witness without the consent of the child's parents or legal guardian?

Opinion #4:

Yes, subject to the constraints set forth in opinion #1.

If not otherwise clear from the context, the conditions and limitations imposed by this opinion apply equally to prosecutors. ■

Amendments Approved by the Supreme Court

At a conference on February 5, 2009, the North Carolina Supreme Court approved the following amendments to the rules of the North Carolina State Bar:

Amendments to the IOLTA Rules and Rules of Professional Conduct

27 N.C.A.C. 1D, Section .1300, Rules Governing the Administration of the Plan for Interest on Lawyers' Trust Accounts

27 N.C.A.C. 2, Rules of Professional Conduct, Rule 1.15, Safekeeping Property

These proposed technical amendments were necessitated by the transition from voluntary to mandatory IOLTA.

Amendments to the Rules and Regulations Governing the Administration of the CLE Program

27 N.C.A.C. 1D, Section .1500, Rules Governing the Administration of the Continuing Legal Education Program, and Section .1600, Regulations Governing the Administration of the Continuing Legal Education Program

The amendments clarify when a lawyer will be billed for attendee fees that are not paid by a sponsor of a program and deny CLE credit to any substantive law course taught by a disbarred lawyer unless the course is on professional responsibility (ethics).

Amendments to the Rules Governing Specialization

27 N.C.A.C. 1D, Section .1700, The Plan of Legal Specialization; Section .1800, Hearing and Appeal Rules of the Board of Legal Specialization; Section .1900, Continuing Legal Education for the Purposes of the Board of Legal Specialization; and Section .2900, Certification Standards for the Elder Law Specialty

The amendments to Section .1700 allow a specialist to take certain CLE courses that are not in the specialty practice area or a related field. The amendments to the appeal rules clarify the conditions under which an applicant may view a failed examination and limit the applicant's appeal rights to re-grading of the failed examination. The amendments to the rules on CLE for specialization ensure that applicants for specialization receive the same teaching credit for multiple presentations as permitted by the CLE rules for the general membership of the State Bar. Section .2900 contains the rules for a new specialty in elder law.

Amendments to the Plan for Certification of Paralegals

27 N.C.A.C. 1G, Section .0100, The Plan for Certification of Paralegals

The amendments allow the board's review panel to take into consideration reformation of character and other mitigating factors when determining whether an applicant will be denied certification because of a criminal conviction. The amendments also revise the review and appeal procedures when an applicant for certification fails the examination.

Amendments Pending Approval by the Supreme Court

At its meetings on October 24, 2008, and January 23, 2009, the council of the North Carolina State Bar voted to adopt the following amendments for transmission to the North Carolina Supreme Court for approval (for the complete text of the proposed amendments, see the Fall 2008 and Winter 2008 editions of the *Journal* or visit the State Bar website: www.ncbar.gov).

Proposed Amendments to the Rules on Discipline and Disability

27 N.C.A.C. 1B, Section .0100, Discipline and Disability of Attorneys

The proposed amendments to the discipline rules revise and replace the existing rule limiting the time period for filing grievances and provide guidelines for the Grievance Committee and for the Disciplinary Hearing Commission when imposing discipline.

At its meeting on April 24, 2009, no action was taken by the council on proposed amendments to the Preamble, Rule 1.8, and Rule 3.8 of the Rules of Professional Conduct; these items were sent to subcommittees of the Ethics Committee for further study. At the meeting, the council voted to adopt the following amendments for transmission to the North Carolina Supreme Court for approval (for the complete text of the proposed amendments, see the Spring 2009 edition of the *Journal* or visit the State Bar website: www.ncbar.gov).

Proposed Amendments to the Rules on Discipline and Disability

27 N.C.A.C. 1B, Section .0100, Discipline and Disability of Attorneys

The proposed amendments provide for enhanced disciplinary sanctions as a function of prior discipline.

Proposed Amendments to the Discipline and Disability Rules to Change Terminology

27 N.C.A.C. 1B, Section .0100, Discipline and Disability of Attorneys

Participants in the disciplinary system and observers occasionally become confused when trying to distinguish between the hearing "committees" of the Disciplinary Hearing Commission (DHC), the Commission as a whole, and the Grievance Committee. To reduce this confusion, the word "panel" is substituted for the word "committee" whenever the latter word is used in this section to

refer to a three-member panel of the DHC presiding over a public hearing.

Proposed Amendments to the Procedures for Administrative Suspension

27 N.C.A.C. 1D, Section .0900, Procedures for Administrative Committee

Proposed amendments to the rules on administrative suspension for failure to timely fulfill a duty of membership (e.g., pay membership dues, complete annual CLE, return CLE annual report form, etc.) require a lawyer who is served with an order of suspension to wind-down his or her law practice within 30 days after the order goes into effect. The wind-down obligations are the same as those imposed when a lawyer receives a disciplinary suspension or is disbarred. Under the proposed amendments, if a lawyer under administrative suspension fails to fulfill the wind-down obligations, the member is subject to professional discipline.

Other proposed amendments eliminate the recitation of the obligations of membership enforceable under the administrative suspension rule in favor of a generic reference thereto and eliminate the requirement of service pursuant to Rule 4 of the Rules of Civil Procedure in favor of service by registered or certified mail at the member's last address on record with the State Bar.

Proposed Amendments

At its meeting on April 24, 2009, the council voted to publish the following proposed rule amendments for comment from the members of the bar:

Proposed Amendments to the Regulations Governing the Administration of the Continuing Legal Education Program

27 N.C.A.C. 1D, Section .1600, Regulations Governing the Administration of the Continuing Legal Education Program

The proposed amendments provide for an increase to the fee charged to sponsors and attendees of approved CLE courses to support the activities of the Chief Justice's Equal Access to Justice Commission. A portion of the increase ($0.25) will be retained by the State Bar to defray its costs for the collection of and accounting for the fee.

.1606 Fees

(a) Sponsor Fee - The sponsor fee, a charge paid directly by the sponsor, shall be paid by all sponsors of approved activities presented in North Carolina and by accredited sponsors located in North Carolina for approved activities wherever presented, except that no sponsor fee is required where approved activities are offered without charge to attendees. In any other instance, payment of the fee by the sponsor is optional. The amount of the fee, per approved CLE hour per active member of the North Carolina State Bar in attendance, is ~~$1.25~~ $3.00. This amount shall be allocated as follows: $1.25 to the Board of Continuing Legal Education to administer the CLE program; $1.00 to ~~plus such additional amount as determined by the council as necessary to support~~ the Chief Justice's Commission on Professionalism ~~but not to exceed $1.00~~; $.050 to the Chief Justice's Equal Access to Justice Commission; and $0.25 to the State Bar to administer the funds distributed to the commissions. The fee is computed as shown in the following formula and example which assumes a 6-hour course attended by 100 North Carolina lawyers seeking CLE credit ~~and further assumes that the fee per hour is $2.25 which includes as assessment of $1.00 for the Chief Justice's Commission on Professionalism~~:

Fee: ~~$2.25~~ $3.00 x Total Approved CLE Hours (6) x Number of NC Attendees (100) = Total Sponsor Fee ~~($1350)~~($1800)

(b) Attendee Fee - The attendee fee is paid by the North Carolina attorney who requests credit for a program for which no sponsor fee was paid. An attorney will be invoiced for any attendees fees owed following the submission of the attorney's annual report form pursuant to Rule .1522(a) of this subchapter. Payment shall be remitted within 30 (thirty) days of the date of the invoice. The amount of the fee, per approved CLE hour for which the attorney claims credit, is ~~set at $1.25~~ $3.00. This amount shall be allocated as follows: $1.25 to the Board of Continuing Legal Education to administer the CLE program; $1.00 to ~~plus such additional amount as determined by the council as necessary to support~~ the Chief Justice's Commission on Professionalism ~~but not to exceed $1.00~~; $.050 to the Chief Justice's Equal Access to Justice Commission; and $0.25 to the State Bar to administer the funds distributed to the commissions. It is computed as shown in the following formula and example which assumes that the attorney attended an activity approved for 3 hours of CLE credit ~~and that the fee per hour is $2.25 which includes an assessment of $1.00 for the Chief Justice's Commission on Professionalism~~:

Fee: ~~$2.25~~ $3.00 x Total Approved CLE hours (3.0) = Total Attendee Fee ~~($6.75)~~ ($9.00)

(c) Fee Review - The board will review the level of the fee at least annually and

CONTINUED ON PAGE 53

The Process

Proposed amendments to the Rules of the North Carolina State Bar are published for comment in the *Journal*. They are considered for adoption by the council at the succeeding quarterly meeting. If adopted, they are submitted to the North Carolina Supreme Court for approval. Amendments become effective upon approval by the court. **Unless otherwise noted, proposed additions to rules are printed in bold and underlined, deletions are interlined.**

Comments

The State Bar welcomes your comments regarding proposed amendments to the rules. Please send your written comments to L. Thomas Lunsford II, The North Carolina State Bar, PO Box 25908, Raleigh, NC 27611.

Client Security Fund Reimburses Victims

At its meeting on April 23, 2009, the North Carolina State Bar Client Security Fund Board of Trustees approved payments of $38,963.85 to 12 clients who suffered financial losses due to the misconduct of North Carolina lawyers. The board also received information on three claims filed against Michelle Shepherd pursuant to an expedited process adopted by the board in July 2008 in which its counsel could approve reimbursement of title insurance premiums retained by Shepherd that were never paid to a title insurance company. The three expedited claims paid since the last board meeting totaled an additional $1,255.00.

The new payments authorized were:

1. An award of $450.00 to a former client of Charles Alston Jr. of Charlotte. The board found that Alston was retained to represent the client on criminal charges. Alston failed to provide any valuable legal services for the fee paid. Alston was disbarred on October 2, 2008. The board previously reimbursed eight other Alston clients a total of $23,897.30.

2. An award of $250.00 to a former client of Charles Alston Jr. The board found that Alston was hired to handle a traffic citation. Alston failed to provide any valuable legal services for the fee paid.

3. An award of $3,290.85 to a former client of Thomas D. Brown of Charlotte. The board found that Brown handled several real estate loans for this client. Brown failed to make all the disbursements and failed to return the earnest money from one closing that was cancelled. Brown's trust account balance was insufficient to pay all his clients' obligations due to his misappropriation. Brown was disbarred on March 5, 2008. The board previously reimbursed six other Brown clients a total of $33,750.86.

4. An award of $1,102.00 to a former client of Thomas D. Brown. The board found that Brown handled a real estate closing for the client. Although Brown did issue all of the checks in accordance with the settlement statement, two of the checks did not clear the trust account before a preliminary injunction obtained by the State Bar took effect. Brown's trust account balance was insufficient to pay all his clients' obligations due to his misappropriation.

5. An award of $424.00 to a former client of Roger Cardinal of Charlotte. The board found that Cardinal handled a refinance closing for a client. Cardinal failed to timely pay off the prior mortgage and did not pay the county taxes or the title insurance premium. The title insurance company eventually paid the taxes and Cardinal sent the mortgage payoff. However, the title insurance premium remained unpaid and the checks Cardinal sent for other fees did not clear the bank before a preliminary injunction obtained by the State Bar took effect. Cardinal's trust account balance was insufficient to pay all his clients' obligations due to his misappropriation. Cardinal was disbarred on December 26, 2008.

6. An award of $584.00 to a former client of Benita Gibbs of Cary. The board found that Gibbs handled a refinance closing for a client. Gibbs failed to pay off the prior mortgage, the hazard insurance premium, and the title insurance premium. The title insurance company paid off the prior mortgage. Gibbs's trust account balance was insufficient to pay all her clients' obligations due to her misappropriation. Gibbs was disbarred on April 24, 2009.

7. An award of $790.00 to an applicant who suffered a loss from a real estate closing handled by Robert Hume of Swansboro. The board found that Hume handled a real estate closing for a client and issued a check to the applicant as a disbursement from that closing. The check was returned due to Hume's death. Hume's trust account balance was insufficient to pay all his clients' obligations due to his misappropriation. Hume committed suicide on November 10, 2005. The board previously reimbursed eight other Hume clients a total of $5,963.50.

8. An award of $393.00 to a former client of Jonathan Koffa of Zebulon. The board found that Koffa handled a real estate closing for a client. The seller proceeds check was returned because the State Bar froze Koffa's account due to his misappropriation. The title insurance company eventually paid the seller proceeds. Koffa also failed to pay the hazard insurance premium. Koffa was disbarred on April 23, 2004. The board previously reimbursed 11 other Koffa clients a total of $163,559.59.

9. An award of $25,000.00 to a former client of John McCormick of Chapel Hill. The board found that McCormick handled a real estate closing for a client and held some funds in escrow from the closing proceeds pending the resolution of an encroachment issue. McCormick failed to disburse the escrowed funds once the encroachment issue was resolved. McCormick's trust account balance was insufficient to cover all his clients' obligations due to his misappropriation. McCormick was disbarred on May 11, 2007. The board previously reimbursed 14 other McCormick clients a total of $293,855.52.

10. An award of $180.00 to a former client of Angela Seabrooks of Charlotte. The board found that Seabrooks handled a refinance closing for a client in which she failed to pay off the prior mortgage and failed to pay the title insurance premium. The title insurance company eventually paid off the prior mortgage, but the title insurance premium remained unpaid. Seabrooks was disbarred on November 11, 2005. The board previously reimbursed one other Seabrooks client a total of $46,082.30.

11. An award of $1,500.00 to a former client of Marsha Stone of Asheville. The board found that Stone was retained to represent a client petitioning to have her husband declared a co-guardian of a grandchild. Stone failed to provide any valuable legal services for the fee paid. Stone abandoned her practice and later surrendered her license due to misappropriation. Stone was disbarred on October 9, 2008. The board previously reimbursed four other Stone clients a total of $12,000.00.

12. An award of $5,000.00 to a former client of Marsha Stone. The board found that Stone was retained to represent a client in a domestic matter. Stone failed to provide any valuable legal services for the fee paid prior to abandoning her practice. ■

Barber, Youngblood Honored with Service Awards

Wade Barber, a long-time resident and practitioner in Orange and Chatham Counties, is a recipient of the State Bar's Distinguished Service Award. Wade attended UNC-Chapel Hill Law School and began his practice as a legal aid lawyer in Charlotte in 1970. He later returned to Pittsboro and private practice, and is now with Wade Barber, PLLC. He served as the 15B Judicial District Attorney from 1977 until 1984 and as the senior resident superior court judge from 1998 until 2006.

In the letter of nomination, the following characterizations were given.

Throughout his career, Wade has been a distinguished professional and is admired by both the community and his peers. Always measured, fair, and intellectual, Wade is respected by the bar for both his jurisprudence and his bravery.

Wade embodies the principles and goals as stated in the Rules of Professional Conduct as exemplified by the following:

He has demonstrated exemplary service to the profession and has cultivated knowledge of the law beyond its use for clients, employing that knowledge in reform of the law, working to strengthen legal education as seen by his service to several committees and boards, including the NC Criminal Justice Education and Training Standards Committee and the Committee on Structure of the Courts (NC Courts Commission).

Wade has furthered the public's understanding of and confidence in the rule of law and the justice system as seen by his service with commissions such as the NC Bar Association Commission on Public Trust and the Legal Profession, Commission on Alternatives to Incarceration, and NC Commission on Future of the Courts.

Wade has devoted professional time and resources and provided civic leadership to ensure equal access to our system of justice for all those who cannot afford it. His work as a legal aid attorney and volunteer leader in the field of community dispute resolution has also been recognized and includes the following service and awards: Attorney, Mecklenburg Legal Aid Society '70-'71; NC Bar Association Chair, Task Force on Dispute Resolution '84-'85; North Carolina Mediation Network Service Award; NC Bar Association's Dispute Resolution Section Service Award; and North Carolina Civil Liberties Union Award.

Wade has served as president of the 15B Judicial District Bar ('89-'90), been a North Carolina State Bar Councilor ('95-'98), and served on the NC State Bar Ethics Committee ('95-'98, '06-'07).

Wade has always treated opposing counsel with courtesy and respect, particularly regarding his high-profile duties as the District Attorney of the 15B Judicial District (Orange and Chatham Counties) for seven years. He has encouraged and counseled peers by providing advice and mentoring; and fostered civility among members of the bar.

Wade has promoted diversity and diverse participation within the legal profession. During his service as district attorney, he hired and mentored a young African American law school graduate as an assistant district attorney and supported that individual when he sought to succeed Wade as the district attorney. That individual has gone on to become the resident superior court judge in the 15B Judicial District Bar. In placing the name of a woman lawyer into nomination for State Bar Councilor for the the 15B Judicial District Bar, Wade made encouraging remarks to the membership about the importance of a female presence on the NC State Bar Council and bemoaned the fact that our district had never elected a female to that position.

Kenneth Youngblood, a Hendersonville practitioner with Prince, Youngblood & Massagee, PLLC, is a recipient of the State Bar's Distinguished Service Award. Youngblood earned his AB and LL.B. degrees from the University of North Carolina. He was admitted to the bar in 1955.

Kenneth Youngblood has provided pro bono services to many Henderson County non-profit organizations. Following are a few examples of his involvement mentioned in his nomination letter:

- He prepared incorporation papers (including articles of incorporation, minutes, and by-laws), and applied for tax exempt status for all 12 of the Henderson County volunteer fire departments.
- He spearheaded the organization of the Community Foundation of Henderson County, and prevailed upon several local leaders who joined him. He also prepared all legal documents, applied for tax exempt status, and continues to work to establish new trust funds for outstanding community citizens.
- He initiated the organization and establishment of the satellite branches of the Henderson County Public Library. He began with what was then the community of Fletcher in Henderson County, his home, with the donation of his family property for a site, and continued in the Henderson County areas of Etowah, Edneyville, and Green River.
- He worked with others to bring to the western part of the state its first non-profit retirement facility—Carolina Village. This included preparation of legal documents, work on committees to obtain a site, and funding. He has been its attorney since its inception in the 1970s, and has never charged for his services,
- He helped organize Fletcher Arts and Heritage Association (FAHA) with the goal of bringing to the small community of Fletcher an interest in local culture and to elevate the cultural activities in Fletcher.
- In 2005, he began working with the Carolina Mountain Land Conservancy. Since he has been its attorney, the conservancy has more than doubled its properties and easements.
- He worked with a local physician to establish the Henderson County Cancer Fund, which provides money for drugs to cancer patients on an immediate basis, rather than having to go through the larger American Cancer Society—a much slower process.
- For over 30 years, he served as the attorney for the Henderson County Board of

Education and was totally committed to this job, all without compensation, and worked to establish the Henderson County Education Foundation.

■ He served on the North Carolina General Statutes Commission.

■ He worked with others to establish the Free Medical Clinic, preparing legal documents and helping to locate a site.

■ He worked with others to form Opportunity House, a place for seniors to visit, exchange ideas, conduct programs, and participate in workshops.

■ Along with his family, he established a four year college scholarship fund for students at West Henderson High School.

■ He served on the Grievance Committee and the Judiciary Committee of the State Bar.

■ He served for over 15 years on the Morehouse Scholarship Committee.

■ He worked with others to form the Henderson Symphony Orchestra, preparing corporate documents and applying for tax exempt status.

■ He was a member of the Administration of Justice Task Force, a North Carolina Bar Association body.

■ He was the bar councilor for the 29th Judicial District for 13 years from 1970 to 1983. ■

Seeking Distinguished Service Award Nominations

The recently-created North Carolina State Bar Distinguished Service Award program honors current and retired members of the North Carolina State Bar who have demonstrated exemplary service to the legal profession. Such service may be evidenced by a commitment to the principles and goals stated in the Preamble to the Rules of Professional Conduct, for example: furthering the public's understanding of and confidence in the rule of law and the justice system; working to strengthen legal education; providing civic leadership to ensure equal access to our system of justice for all those who, because of economic or social barriers, cannot afford or secure adequate legal counsel; seeking to improve the administration of justice and the quality of services rendered by the legal profession; promoting diversity and diverse participation within the legal profession; providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations; encouraging and counseling peers by providing advice and mentoring; and fostering civility among members of the bar.

Awards will be presented in recipients' districts, usually at a meeting of the district bar. The State Bar Councilor from the recipient's district will participate in introducing the recipient and presenting the certificate. Recipients of the Distinguished Service Award will also be recognized in the State Bar *Journal* and honored at the State Bar's annual meeting in Raleigh. Members of the bar are encouraged to nominate colleagues who have demonstrated outstanding service to the profession. The nomination form is available on the State Bar's website, www.ncbar.gov, and ***the deadline for submissions is July 1, 2009.*** Please direct questions to Becky Carroll at the State Bar office in Raleigh, (919) 828-4620. ■

Rule Amendments (cont.)

adjust it as necessary to maintain adequate finances for prudent operation of the board in a nonprofit manner. ~~The fee charged to sponsors and attendees will be increased only to the extent necessary for those fees to pay the costs of administration of the CLE program.~~ The council shall annually review the assessments for the Chief Justice's Commission on Professionalism and the Chief Justice's Equal Access to Justice Commission and adjust ~~it~~ them as necessary to maintain adequate finances for the operation of the ~~commission~~ commissions.

(d)...

Proposed Amendments to the Plan for Certification of Paralegals

27 N.C.A.C. 1G, Section .0100, The Plan for Certification of Paralegals

To incentivize timely submissions, the proposed amendment imposes a $25.00 late fee for delinquent applications for continued certification (recertification).

.0120 Standards for Continued Certification of Paralegals

(a) ...

(c) A late fee of $25.00 will be charged to any certified paralegal who fails to file the renewal application within forty-five (45) days of the due date; provided, however, a renewal application will not be accepted more than ninety (90) days after the due date. Failure to renew shall result in lapse of certification.

Proposed Amendments to the Rules of Professional Conduct

27 N.C.A.C. 2, Rules of Professional Conduct, Rule 1.15, Safeguarding Property

The proposed amendment deletes the term "credit union" from the definition of what is considered a "bank" because the deposits of clients held in a credit union trust account are not covered by federal deposit insurance unless the clients are themselves members of the credit union.

Rule 1.15-1, *Definitions*

For purposes of this Rule 1.15, the following definitions apply:

(a) "Bank" denotes a bank~~,~~ or savings and loan association~~, or credit union~~ chartered under North Carolina or federal law.

(b) ... ■

Law School Briefs

Charlotte School of Law

The Charlotte School of Law (CharlotteLaw) began its third spring semester in January by welcoming 32 new students, bringing enrollment to 307 students. The school also said goodbye to its inaugural dean, Eugene (Gene) Clark, who was appointed interim dean at Phoenix School of Law, and welcomed interim dean Dennis Stone who served as CharlotteLaw's acting dean prior to the appointment of Dean Clark in 2006. Stone served most recently as the vice-president of operations for the InfiLaw System.

The Charlotte Law Review held its Third Annual Spring Symposium in February on the topic of "Judicial Independence." The keynote speaker was Justice Mark D. Martin. The school also hosted a consolidated multi-district case in its courtroom in which The Honorable Frank D. Whitney, Federal District Court Judge for the Western District of North Carolina, heard pretrial motions in *Spinozzi v. LendingTree.*

The Charlotte School of Law is proud of its students' accomplishments. Student teams competed in a number of legal competitions this semester and brought home several awards and a few bragging rights—one team finished second-place at the American Association of Justice Student Trial Advocacy competition, and another team earned the Best Brief Award and third place overall in brief and oral argument at the Saul Lefkowitz Intellectual Property Law Competition. In service to the underserved, CharlotteLaw students have provided over 19,340 hours of free legal service to the community through the school's Experiential Learning Program (Pro Bono and Externships).

CharlotteLaw received provisional ABA approval in June 2008. The school hosted a limited ABA site visit this past fall, keeping the school on track to earn full approval in the next two years. With the second half of the semester underway, the CharlotteLaw community now looks forward to the graduation of its inaugural class on May 17, 2009. Honorable Allyson Duncan, US Fourth Circuit Court of Appeals, will be the keynote speaker.

Elon University School of Law

New Leadership Fellows Program Announced—In March, Elon University School of Law announced a Leadership Fellows program for select students entering in the fall of 2009. As part of Elon Law's mission to infuse its legal education with leadership development, the school will invite students who have demonstrated exceptional leadership through community, collegiate, military, or academic experience, and who show promise as leaders in the legal community, to become leadership fellows. Details are available through the admissions page of the Elon Law website: law.elon.edu.

Elon Law Students Addressing Community Needs—In 2009, Elon Law students launched free tax preparation and will drafting clinics for low and middle-income communities, advised on housing policy at a regional summit, and presented legal analysis to four nonprofits on matters ranging from urban development to the establishment of an educational consortium for institutions of higher education in Greensboro. This work is part of Elon Law's ongoing engagement with the civic, business, and legal sectors of the region, considered an essential part of law school's program of study and an opportunity to serve the needs of the region.

Moot Court Teams Successful in National Competitions—In February, the Elon Law team of Melanie Crenshaw and Luke Spencer finished in second place out of 24 teams at the J. Braxton Craven Moot Court Competition hosted by the University of North Carolina School of Law. In reaching the final round against Florida State, the Elon team defeated teams from George Mason, Charleston, and Boston College. The showing followed a second place finish by Neil Oakley and Richard Webb at a national tournament hosted by Regent University School of Law. Oakley and Webb also won that tournament's Best Brief award, as did David Klein and Nicole Patterson at a national competition hosted by Charleston School of Law.

Duke Law School

Three Scholars Join Duke Law Faculty July 1—Laurence R. Helfer, professor of law and director of the International Legal Studies Program at Vanderbilt Law School, will join the faculty as professor of law and co-director of the Center for International and Comparative Law. Helfer's research interests include interdisciplinary analysis of international law and institutions, human rights, international litigation and dispute settlement, international intellectual property law and policy, and lesbian and gay rights.

Guy-Uriel Charles, the Russell M. and Elizabeth M. Bennett Professor of Law at the University of Minnesota Law School, will join the faculty after visiting for the 2008-09 academic year. A scholar of constitutional law with particular expertise in issues relating to race, election law, law and politics, and civil procedure, Charles will guide the creation of a center on race and politics.

Joseph Blocher, an emerging scholar of constitutional law, federal courts, and property law, will join the faculty after completing a clerkship with Judge Guido Calabresi of the US Court of Appeals for the Second Circuit. A 2006 graduate of Yale Law School, where he co-chaired the Legal Services Organization, Blocher has also clerked for Judge Rosemary Barkett on the US Court of Appeals for the Eleventh Circuit and worked in the appellate group of O'Melveny & Myers in Washington, DC. He is a Durham native.

In the Classroom—"The Duke Project" is a class project with ambitious real-world goals. After undertaking a forensic analysis of the origins and contagion of the financial crisis, students in visiting professor Bill Brown's class on "Legal, Accounting, and Business Responses to the Subprime Crisis"

have developed papers that propose approaches to specific domestic and international challenges, such as economic stimulus, moral hazard, consumer debt, accounting rules, and the role of rating agencies. The papers will be collected in a forthcoming book.

New Blog Tracks Executive Branch Power—Duke's Program in Public Law has launched a blog dedicated to monitoring, analyzing, and providing a forum for discussing questions of presidential power. "Executive Watch" features news stories and commentary about executive-branch actions, including executive orders, presidential memos, and signing statements. It can be found at www.executivewatch.net.

UNC School of Law

Banking and Finance—The school's Center for Banking and Finance has developed ambitious programming to educate the public and private organizations about the financial crisis, its origins, and its implications. Special events include public forums, roundtables, and CLE offerings, including a two-day Banking Institute in Charlotte March 30 - 31 which featured leading lawyers, bankers, and federal and state banking officials.

Public Interest—UNC School of Law ranked number nine for public interest law by *preLaw Magazine*. Top ten schools were cited for strength of clinical and pro bono programs, loan assistance programs, and percentage of graduates who pursue public interest.

Public Service—Students volunteered over spring break in eastern Carolina, working with Legal Aid NC to draft wills for low-income elderly families.

Student Support—The school dedicated an additional $200,000 to help mitigate student exposure to this difficult job market. Additional funding is for faculty research assistantships, summer grants, bar exam application fees, and other practical skills programming.

Loan Repayment Assistance Program—The school launched its Loan Repayment Assistance Program in March for graduates with law school debt working in public interest. Applicants will receive funding notification in June. A larger cohort will be invited to apply this fall.

Education—The Center for Civil Rights hosted "Looking to the Future: Legal and Policy Options for Racially Integrated Education," on April 2, which examined the 2007 Supreme Court decision in *Parents in Community Schools v. Seattle School District No. 1*, which limited how school districts could use race as a factor for assigning students to schools nationwide.

Intellectual Property—The school hosted guest speaker R. Charles Henn, an intellectual property attorney and alumnus who was named a 2008 Lawyer of the Year by *Lawyers USA* after making history when a jury awarded his client, Adidas, $304.7 million—the largest trademark verdict ever.

Campbell University School of Law

The Campbell University School of Law will relocate from its traditional home on the main Campbell University campus in Buies Creek, NC, to downtown Raleigh in the fall of 2009. Plans call for classes to start in mid-September.

Campbell's new Raleigh location at 225 Hillsborough Street will boast over 109,000 sq. ft. of space, a 40% increase over the law school's current home in Buies Creek. The new building will also feature 13 spacious classrooms, a 200-seat auditorium for use by Campbell and the broader community, a 25,000 sq. ft. library on two floors, a large student commons area and coffee shop, a chapel, pro bono law clinic offices, and a generously spaced legal writing center. The law school will be fitted with the latest in instructional and wireless technology, making Campbell one of the most advanced institutions of legal education in the country.

The law school is pleased to announce the creation of a new Senior Law Clinic that will be located in Raleigh following the law school's fall 2009 move. The Campbell Senior Law Clinic will serve the legal needs of low-income seniors in the greater Raleigh region on a pro bono basis. Staffed by Campbell Law students, the clinic will be supervised by a full-time clinical director who is a licensed attorney specializing in senior and elder law issues. Progress Energy is providing seed money to launch this important community-based legal clinic.

Through March 10 applications from prospective Campbell Law students interested in starting classes in the fall were running 25% ahead from the same period one year prior. The Law School Admission Council (LSAC) reports that applications to law schools on a national basis are actually down, on average, by about one percent and applications to law schools in the southeast are down by about five percent.

Wake Forest University School of Law

Wake Forest University School of Law has recently introduced two new clinics to its experiential learning offerings. The law school, under the direction of Dean Blake Morant, is expanding clinical opportunities, and exploring externships and other methods of integrating the classroom with the realities of legal practice. The first is the Community Law & Business Clinic, which opened in November and is serving clients from its location in downtown Winston-Salem. Wake Forest students and faculty provide pro bono legal and business consultancy services to small business owners and nonprofit organizations in Winston-Salem as well as the surrounding communities. Among the range of services the CL&BC offers is drafting and reviewing documents and agreements and advising entrepreneurs on business planning and development. The new Innocence and Justice Clinic, which began spring semester 2009, gives students the opportunity to examine the legal, scientific, cultural, and psychological causes of wrongful convictions. The interdisciplinary course allows students to apply their knowledge to actual cases by reviewing and investigating claims of innocence by inmates and, where appropriate, pursuing legal avenues for exoneration and release from prison. Students will meet two hours a week to examine and discuss the substantive law that addresses the causes and remedies associated with wrongful convictions. They are placed in pairs and assigned actual cases to investigate in which inmates are claiming innocence. In addition to the creation of the Innocence and Justice Clinic, the student-run Innocence Project has been made a formal student organization. The Innocence Project will explore joint projects with The Darryl Hunt Project for Freedom and Justice to focus on educating the public about wrongful convictions; protesting executions and injustices in the system; and supporting families of those incarcerated, among others. Associate Dean Ron Wright described the Innocence and Justice Clinic as "the latest component of our larger effort to enrich the experiential learning available to Wake Forest students." ■

July 2009 Bar Exam Applicants

The July 2009 Bar Examination will be held in Raleigh on July 28 and 29, 2009. Published below are the names of the applicants whose applications were received and entered in the Board's tracking system on or before May 1, 2009. Members are requested to examine it and notify the board in a signed letter of any information which might influence the board in considering the general fitness of any applicant for admission. Correspondence should be directed to Fred P. Parker III, Executive Director, Board of Law Examiners, PO Box 2946, Raleigh, NC 27602.

John Hampton Aaron
Hickory, NC
Faheemah Mahasin Abdullah
Charlotte, NC
John Knox Abernethy
Winston-Salem, NC
Andrew Frederic Acker
Syracuse, NY
Andrew Harrison Ackley
Raleigh, NC
Joseph Brandon Adams
Angier, NC
Tolulagbara Olaoluwa Adewale
Durham, NC
Derek Paul Adler
Carrboro, NC
Hannah Kennedy Albertson
Chapel Hill, NC
Russell Clayton Alexander
Morehead City, NC
Stephania Desir Alexis
Cary, NC
Britainy Faye Alford
Greensboro, NC
Bashir Musse Sheikh Ali
Apex, NC
Alonzo McAlpine Alston
Charlotte, NC
Vernetta Rinoa Alston
Raleigh, NC
Abiola Temitayo Aluko
Fayetteville, NC
Charles Anderson
Ft. Mill, SC
Christopher Cole Anderson
Albany, NY
Donald Ray Anderson Jr
Stafford, VA
Michele Nicole Andrejco
Greensboro, NC
Margaret Lewis Anthony
Winston-Salem, NC
Dorothy Pride Ariail
Chapel Hill, NC
Mark Arinci
St. Louis, MO
Maximillian Franklin Lafay Armfield
Greensboro, NC
Jamie Carroll Arnold
Clyde, NC
Jacob Thompson Arthur
Raleigh, NC
Marc Stephen Asbill
Charlotte, NC
Austin Lanel Asbury
Raleigh, NC
Nikeita Reshay Ashe
Durham, NC
Adeola Opeoluwa Ashiru
Raleigh, NC
John Richard Astle
Durham, NC
Lesley Rand Attkisson
Nashville, TN
Patrick McQuillan Aul
Chapel Hill, NC
Jonathan Kyle Aust
Greensboro, NC
Ashley Jane Austin
Atlanta, GA
Benjamin David Austrin-Willis
Winston-Salem, NC
Jason Lee Aycoth
Greensboro, NC
Sinan Aydiner
Fresh Meadows, NY
Ashlee Elaine Ayers
Raleigh, NC
Leslie Ann Baggatta
Hickory, NC
Kahmil Annette Bailey
Raleigh, NC
Adam Loren Baker
Nashville, NC
Heather Tonelli Baker
Raleigh, NC
Michael Douglas Baker
Oak Ridge, NC
Kelly Lynn Ballard
Lillington, NC
Matthew David Ballew
Durham, NC
Elizabeth Blackmore Barber
Chapel Hill, NC
Danielle Monet Barbour
Durham, NC
Shannan Maria Barclay
Huntingdon, PA
Stephanie Marie Barfield
Charlotte, NC
LaTosha Rochelle Barnes
Winston Salem, NC
Cristen Lee Bartus
Oregon, OH
Matthew Kirkland Bass
Nashville, NC
Joseph Baird Bass III
Coral Gables, FL
Jennifer Ann Batson
Zebulon, NC
Megan Elizabeth Baumgardner
Buies Creek, NC
John mark Bauserman
San Diego, CA
Ashley Hume Baxter
New Bern, NC
David Barrus Baxter Jr.
Durham, NC
Kate Ann Beardsley
Wilmington, NC
Amy Archer Beasley
Lillington, NC
Daniel Roland Beaudry
Winston-Salem, NC
Calvin Reid Beaver
Charlotte, NC
Christina Marie Beckmann
San Antonio, TX
Ashley Renee Bell
Bridgeport, WV
Barbara- Jo Bell
Hudson, FL
Jonathan Aaron Bennett
Greensboro, NC
Ashley Danielle Bennington
Winston Salem, NC
Tyler Schilling Benson
Coral Gables, FL
Steven Allen Bimbo
Charlotte, NC
Charles Richard Blackburn
Candler, NC
Jason Michael Blackburn
Goldsboro, NC
Elizabeth Ann Blackwell
Columbia, SC
Arienne Elizabeth Blandina
Delmar, NY
Kerin Louise Bligen
Virginia Beach, VA
Leland Scott Bloebaum
Cary, NC
Katherine Elizabeth Bobb
Greensboro, NC
Richard Coleman Bonner
Pittsburgh, PA
Charlotte Ann Boone
Cary, NC
Kevin Wade Boughman
Ayden, NC
Jennifer Elizabeth Bowden
Greensboro, NC
Elleveve Brock Boyer
Lillington, NC
Robert Porter Brackett Jr.
Hendersonville, NC
Elliot Ian Brady
Athens, GA
Edward Marvin Branscomb
Greensboro, NC
Erin Theresa Bray
Baton Rouge, LA
William Forrest Braziel III
Raleigh, NC
Jennifer E. Brevorka
Greensboro, NC
Adam Mark Bridgers
Charlotte, NC
Sarah Jane Brinson
Raleigh, NC
Douglas William Britt
Arlington, VA
Logan Alexander Britt
New Orleans, LA
Joanna Wallis Brooks
James Island, SC
Daniel J Brown
Charlotte, NC
Marta Patrilous Brown
Raleigh, NC
Robert Wilmot Brown III
Durham, NC
Jessica Lyn Brumley
Durham, NC
Cherrelle Martina Bruton
Durham, NC
John Alexander Bryan
Raleigh, NC
Kristan Dale Bryant
Durham, NC
Brock Logan Buck
Banner Elk, NC
Michael Ryan Bucy
Charlottesville, VA
John Clifton Bumgarner
Nashville, TN
Jessica Leeanne Burge
Durham, NC
Scott Kenyon Burger
Okemos, MI
John Keogh Burke
Franklinton, NC
April Renee Burnette
Charlotte, NC
Monica Nicole Burnette
Durham, NC
Jonathan Rhett Burns
Chapel Hill, NC
Elizabeth Arbogast Bushrod
Angier, NC
Quinn Amber Byars
Durham, NC
Sarah Abigail Byrd
Chapel Hill, NC
Lelan Clinton Byrd Jr.
Raleigh, NC
Alexander J. Cabrejas
Durham, NC
Catina Annette Cain
Raleigh, NC
Matthew Michael Calabria
Chapel Hill, NC
Elizabeth Danielle Caldwell
High Point, NC
Gretchen Lee Caldwell
Charlotte, NC
Christina Diane Call
Grundy, VA
Dominique Lehnvon Camm
Durham, NC
Amy Harris Caraway
Dallas, NC
Matilde Jean Carbia
Chapel Hill, NC
Phillip Joseph Carlisle
Toledo, OH
Samuel Wallace Carnwath III
Columbia, SC
Justin Tyler Carpenter
Charlotte, NC
Karen Krupka Carroll
Waxhaw, NC
Kimberly Jane Carter
Charlotte, NC
Jennifer Gwynne Case
Williamsburg, VA
James Raymond Cass
Charlottesville, VA
Patrick John Casstevens
Mount Airy, NC
Robert Lee Cayll
Conover, NC
Valerie Grey Chaffin
Grundy, VA
Zachary Taylor Champlin
Silver Spring, MD
Darcel Chandler
Charlotte, NC
Judy Chang
Los Angeles, CA
Joy McMurry Chappell
Gastonia, NC
Damon John Chetson
Apex, NC
Connor Joseph Michael Childress

Charlottesville, VA
Nia Aisha Chiphe
Raleigh, NC
Laura Stephens Chipman
Durham, NC
Tara Nicole Cho
Jamaica Plain, MA
Elisa Jihyun Choe
Charlotte, NC
Brian Charles Cholewa
Raleigh, NC
Nathan Alden Chrisawn
Burnsville, NC
Donald Brandon Christian
Surf City, NC
Brian Lee Church
Tuscaloosa, AL
Christopher Bradley Clare
Durham, NC
Thomas Benjamin Clark
Charlotte, NC
Keith Turner Clayton
Jamestown, NC
Patrick James Cleary
Chapel Hill, NC
Charles Tyrell Clemons
Durham, NC
Carrie Beth Cline Hungate
Raleigh, NC
Ashley Leder Clingman
Durham, NC
Crandall Frances Close
Chapel Hill, NC
Kari Ann Coble
Lynchburg, VA
Raymond Joseph Coble
Lynchburg, VA
Margaret Cochrane
Charlotte, NC
Anna Warburton Coffin
Winston-Salem, NC
Timothy James Coley
Durham, NC
John Matthew Collins
Charleston, SC
Jason Thomas Condrasky
Greensboro, NC
Brian James Conley
Winston Salem, NC
Laura Elizabeth Conner
Durham, NC
Marcus Wayne Conner Jr.
Melrose, MA
Yolanda Lynn Conrad
Fuquay Varina, NC
Hilary Roxanne Godette Cooper
Chapel Hill, NC
Jeffrey Miles Cooper
Rutherfordton, NC
Alfred Braswell Cooper III
Atlantic Beach, NC
Phillip Leon Cornett
Pittsboro, NC
Jessica Lee Cornette
Coats, NC
Emiliano Corral
Chapel Hill, NC
Jessie Marie Corwin
Springville, UT
Jennifer Lee Cory
Charlotte, NC
Ann Kathryn Cosper
Durham, NC
John David Costa
Atlanta, GA
Kimberly Ann Costello
Greensboro, NC
Sara Fitzhenry Coughlin
Chapel Hill, NC
Alicia Marie Covert
Weirton, WV
Matthew Barron Covington
Greensboro, NC
Matthew Thomas Covington
Raleigh, NC
Gregory Preston Cowan
Greensboro, NC
Shaun Welborn Cranford
Columbia, SC
Candice Alicia Crawford
Raliegh, NC
David Andrew Creech
Miami, FL
Melanie Yvonne Crenshaw
Greensboro, NC
Sean Francis Cronin
Fort Mill, SC
Amber Renee Cronk
Raleigh, NC
Catherine Ann Cupo
Buies Creek, NC
David Matthew Curcio
Macon, GA
David Blake Currens
Cary, NC
Lindsay Catherine Currie
Chapel Hill, NC
Ashley Black Currin
Raleigh, NC
Anthony James Cuticchia Jr.
Cary, NC
Michele Hollowell Cybulski
Greensboro, NC
Roberta Carolina Dalla Verde
Suwanee, GA
Danny Haynes Dallas Jr.
Chapel Hill, NC
Karen Daniels Dane
Manteo, NC
DeLisa Levette Daniels
Greensboro, NC
Elizabeth Carlene Dantism
Charlotte, NC
Katherine Bruce Harris Dare
Vansant, VA
Adriene Marie Davis
Durham, NC
Andrew Jonathan Davis
Morrisville, NC
Angela Lynne Davis
Jacksonville, FL
Ashley Nicole Davis
Charlotte, NC
Jonathan Blake Davis
Lynchburg, VA
Seraka Davis
Durham, NC
Andrew Michael Davisson
Winston-Salem, NC
James Aaron Dean
Winston-Salem, NC
John Frederick Deans Jr.
Lillington, NC
Matthew Stephen DeAntonio
Columbia, SC
Anne Thurston Debnam
Greensboro, NC
John Joseph Decker
North Charleston, SC
Brandon Robert DeCurtins
Charlotte, NC
Kelly Diane Dellerba
Clayton, NC
Adrian William Dellinger
Raleigh, NC
Carly Marie Denning
Raleigh, NC
James Shelton Derrick
Athens, GA
John Christopher Derrick
Chapel Hill, NC
Charlyne Marie DeVane
West End, NC
Fred William DeVore IV
Greensboro, NC
Amrita Kaur Dhaliwal
Charlotte, NC
Christopher James Dickson
New York, NY
Sean Thomas Dillenbeck
Athens, GA
Christopher John Dobranski
Charlotte, NC
Allison Williams Dobson
Durham, NC
Mark Philip Doby
Buies Creek, NC
Timothy Ryan Dodge
Durham, NC
Eric Laurence Doggett
Winston-Salem, NC
Alison J. Domnas
Chapel Hill, NC
Daniel Louis Donovan
Greensboro, NC
Brittany Morgan Doolittle
Nashville, TN
Dustin Randolph Dow
Southern Pines, NC
Benjamin Carlyle Downing
Charlotte, NC
Margaret McCaffrey Doyle
Arlington, VA
James Edward Drawdy
Columbia, SC
Emily Marie Drosback
Tiverton, RI
Jessica Morgan Drutchas
Bloomfield Hills, MI
Herbert Rudolph Dudley
Kinston, NC
Adam Taylor Duke
Chapel Hill, NC
Andria May Duncan
Murphy, NC
Damon Terry Duncan
High Point, NC
Jennifer Dunlevy-Scholz Duncan
Chapel Hill, NC
Jeri Ashley Duncan
Monroe, NC
Melissa Ann Duncan
High Point, NC
Rustin Bryce Duncan
Lillington, NC
Grant Steven Dunham
Winston-Salem, NC
Corye Barbour Dunn
Durham, NC
Christopher Robert Eakin
High Point, NC
Joy Peele Easley
Oak Island, NC
Deborah Grace Eberle
Buies Creek, NC
Andrew Edelman
San Antonio, TX
Hunter Sutton Edwards
Gainesville, FL
Lori Beth Edwards
Winston Salem, NC
David Wyatt Elliott
Raleigh, NC
Peter Matthias Ellis
Cary, NC
Courtney Nicole Ellis Guin
Charlotte, NC
Brian David Elston
Durham, NC
Phillip Charles Entzminger
Greenville, NC
Lisa Diana Epperly
State College, PA
Ashley Lillian Erickson
Chapel Hill, NC
Jay Wyatt Evans
Raleigh, NC
Tracey Renee Evans
Charlotte, NC
Berit Louise Everhart
Lexington, VA
Corwin DeLeon Eversley
Durham, NC
Erich Matthew Fabricius
Mebane, NC
Matthew Hall Fair
Port Saint Lucie, FL
Benjamin Edwin Farish
Raleigh, NC
Caleb Jefferson Farmer
Rutherfordton, NC
Gina Marie Farrar
Lynchburg, VA
Andrew Lee Farris
Saxapahaw, NC
Stacey Erin Feinstein
Charleston, SC
Thomas Russell Ferguson III
Washington, DC
Jessica Elizabeth Fields
Durham, NC
Ann Elizabeth Fievet
Winston-Salem, NC
Vincent James Filliben
Winston-Salem, NC
Jennifer Carol Finch
Willow Springs, NC
Benjamin Steed Finholt
Iowa City, IA
Rip Stafford Fiser
Winston-Salem, NC
Samuel David Fleder
Lillington, NC
Jennifer Mink Fleeman
Greensboro, NC
Thomas James Floeter
Winston Salem, NC
John Thomas Floyd
Columbia, SC
Kristen Traulsen Forbes
Mooresville, NC
Kristen Marie Formanek
Carrboro, NC
Lewis Chilton Foster III
Charlottesville, VA
Andrea Lauren Fowler
Chapel Hill, NC
Ashley Donahue Fox
Cary, NC
Erica Rachel Franke
Chapel Hill, NC
Anthony Theodore Fraune
Raleigh, NC
Hunter Wayne Frederick
Fuquay-Varina, NC
Ernest Lanier Freeman III
Durham, NC
Meredith Christie French
Durham, NC
Elizabeth Long Friary
Charlestown, MA
Gonzalo Emilio Frias
Bethesda, MD
Michael Alexander Frickey
Lillington, NC
Preston Brooks Fuller
Charlotte, NC
Tiffany Nicole Fullwood
Durham, NC
Rudolph Clarence Gabriel
Waxhaw, NC
Michael Phillip Gaffney
Sewell, NJ
Clarissa Rae Galvin
Grundy, VA
Jazmin Garcia
Chicago, IL
Charles Herman Gardner
Raleigh, NC
Cheryl Joan Gardner
Holly Springs, NC
Georgeanna Marie Gardner
Lillington, NC
Carla Louise Gartrell
Willow Spring, NC
Deedee Rouse Gasch
Jacksonville, FL
Kevin Curry Gaskins
Chapel Hill, NC
Charles Edward Gates Jr.
Lexington, VA
Alice Manning Gavigan
Charlotte, NC
Rosalyn Claire Gell
Winston-Salem, NC
John Michael Genest
Durham, NC
Lindsi Anne Gerdes
Fuquay Varina, NC
Andrew Daniel Gerschutz
Chapel Hill, NC
Andrea Marie Gervais
Nashville, TN
Jamie Susanne Getty
Lewisville, NC
David Andrew Gibbons
Greensboro, NC
Alicia Charlene Gibson
Ridgeway, SC
Lyndsey Jewell Gibson
Durham, NC
Robert Clayton Giddings
Durham, NC

Melissa Scott Gilbert
Columbus, OH
Peter Hull Gilbert
Durham, NC
Phillip Hunter Gilfus
Fayetteville, NC
Zachary Christian Gill
Raleigh, NC
Brittni Leticia Goldman
Charlottesville, VA
Kelley Louise Gondring
Chapel Hill, NC
Thomas William Gooden
Mooresville, NC
Kara Korea Goodman
Charlotte, NC
Senitria Arnyce Goodman
Kingsport, TN
Lakethia Ronnette Gore
Chapel Hill, NC
Ryan Heath Gore
Raleigh, NC
Aaron Frederick Goss
Salisbury, NC
Elizabeth Lee Graham
Fort Mill, SC
Elizabeth Marie Graham
Raleigh, NC
Kimberly Dawn Grande
Fayetteville, NC
James Alexander Grant
Macon, GA
Norlan Waring Graves
Durham, NC
Laura Gray
Alexandria, VA
Anthony Lavell Green
Raleigh, NC
Shante' Molika Green
Fayetteville, NC
Megan Rene Greene
Kernersville, NC
Adrina Michelle Greenlee
Durham, NC
Holly Jeanne Greeson
Greensboro, NC
David Brandon Greife
Carrboro, NC
Valerie Lynn Griffith
Grundy, VA
Evelyn Rose Griggs
Chapel Hill, NC
Holly Arlene Groh
Lillington, NC
Natalie Marie Grout
Columbia, SC
Jamie Lynne Grubb
Angier, NC
Ruth Leanor Gual-Jaimes
Charlotte, NC
Lambert Franklin Guinn
Charlotte, NC
Julie Michele Gurman
Hendersonville, NC
Vernon Hart Guthrie Jr.
Knoxville, TN
Emily Michele Haas
Cary, NC
Mary Carolyn Hackney
Raleigh, NC
Allison Elizabeth Hager
Kings Mountain, NC
Crystal Dawn Hairr
Dunn, NC
Amelia Dudley Hairston-Porter
Durham, NC
Emily Kelly Hales
Durham, NC
Jennifer Mouchet Hall
Cary, NC
Sarah Amelia Hall
Winston-Salem, NC
James Bryan Hall Jr.
Charlotte, NC
Cara-Ann Masako Hamaguchi
Chapel Hill, NC
Erika Leigh Hamby
Greensboro, NC
Elise Garland Hamilton
Carrboro, NC
Jennifer Davis Hammond
Salisbury, NC
Shawn Joseph Handy
Winston-Salem, NC
Botrus Adel Hanna
Chapel Hill, NC
Merissa Dyan Hannah
Charlotte, NC
Mary Elizabeth Hanna-Weir
Ann Arbor, MI
Mark Joseph Hanson
Chapel Hill, NC
Luke Barkley Hardison
Buies Creek, NC
Jordan Laura Hardy
Jacksonville, FL
Jason Wayne Harmon
Boone, NC
Scott Alexander Harper II
Columbia, SC
Andrea Leigh Dancy Harrell
Greensboro, NC
Dameka Arshane' Harrington
Durham, NC
Jonathan Redford Harris
Cary, NC
LaTanya Alexcine Harris
Durham, NC
Quentin Edward Harris
Greensboro, NC
Phillip Absolom Harris Jr.
Durham, NC
Amber Nicole Harrison
Charlotte, NC
Nichelle Nicole Harrison
Greensboro, NC
Ryan Benjamin Harrison
Durham, NC
Yolonda Patrice Harrison
Durham, NC
Melinda Ellen Harvey
Archdale, NC
Jesse Abraham Haskins
Durham, NC
Shaun William Hassett
Dayton, OH
Todd David Hastings
New Orleans, LA
Andrew Lee Hayes
Jacksonville, FL
James Bryant Haynes
Greensboro, NC
Miriam Antoinette Heard
Greensboro, NC
Douglas Bowen Heath
Raleigh, NC
Timothy Evan Heinle
Brookline, MA
Douglas William Hendrick
Chapel Hill, NC
Deron Kyle Henry
Winston Salem, NC
Christopher Morgan Hensley
Durham, NC
James Leighton Henson
Greensboro, NC
Tonia Lynn Hernandez
Stokesdale, NC
John Alexander Heroy
Chapel Hill, NC
Kristen Nicole Higbee
Columbia, SC
Daniel Ross Higginbotham
Durham, NC
John Stephen Hindsman Jr.
Coats, NC
Andrea Leigh Hinshaw
Raleigh, NC
David Steven Hinson
Brookline, MA
James Chadwick Hinton
Greensboro, NC
Adam Samuel Hocutt
Winston-Salem, NC
Kimberly Ann Hoelzer
East Norwich, NY
Amy Ruth Holbrook
Winston-Salem, NC
Melissa Grace Holer
Carrboro, NC
Pamela Ellinger Hollern
Jamestown, NC
Matthew Baptiste Holloway
Philadelphia, PA
Jessica Nicole Holmes
Chapel Hill, NC
Richard Joseph Holmes
Charlotte, NC
Amy Norwood Holthouser
Davidson, NC
Hannah Elizabeth Honour
Macon, GA
Ellen Inocencia Houseal
Boston, MA
Jackie Sue Houser
Lynchburg, VA
Theodore James Hovda III
Durham, NC
James Lyle Howard
Morrisville, NC
Nycole Robinson Howard
Burnsville, NC
Kevin Vernon Howell
Coats, NC
Randall Ross Howell
Carrboro, NC
Lisa Taylor Hudson
Glen Allen, VA
Matthew Blake Huffman
Durham, NC
Mary Albert Hutton
Williamsburg, VA
Daniel Le Huynh
Doraville, GA
Thua Huynh
Jacksonville, FL
Joseph Lucas Hyde
Carrboro, NC
Samuel Paul Hyde
Greensboro, NC
Travis James Iams
Athens, GA
Samuel Richard Iden
Plantation, FL
Mojahed Omar Idlibi
Charlotte, NC
James William Ineich
southern pines, NC
Benjamin Barrett Ingold
Durham, NC
Elizabeth Katherine Isbey
Winston-Salem, NC
Brian Edward Isgett
Durham, NC
Abbie Caroline Ivey
Greensboro, NC
Charles Marshall Ivey IV
Greensboro, NC
Donna Jeanne Jackson
Cary, NC
Jeffrey Neale Jackson
Chapel Hill, NC
Andrew Craig Jackson Jr
Todd, NC
Elizabeth LaChelle Jacobs
Durham, NC
Kristen Elaine Janicek
Raleigh, NC
William Martin Jarrard
Richmond, VA
Thomas Brandon Jaynes
Lillington, NC
Robert Paul Jenkins
Durham, NC
Thomas Carroll Jeter III
Columbia, SC
Mark Steven Jetton Jr.
Greensboro, NC
Adria Leta Johnson
Springfield, VA
Adrienne Jones Johnson
Durham, NC
Brooke JeT'aime Johnson
Columbia, SC
Elyse Beaupr? Johnson
Oxford, MI
Eric David Johnson
Durham, NC
Lamont Sanford Johnson
Durham, NC
Matthew Omega Johnson
Durham, NC
Ted Lewis Johnson
Greensboro, NC
Ann-Rose Marie Johnson-Lewis
Huntersville, NC
Peter Wilson Johnston
Chapel Hill, NC
Benita Nicole Jones
Raleigh, NC
Carrie Latabia Jones
Raleigh, NC
Corinne Berry Jones
Greensboro, NC
Maria Rochelle Jones
Winton, NC
Meredith J Jones
Holly Ridge, NC
Scott Travis Jones
Charlottesville, VA
Susanna Austin Jones
Somerville, MA
Eugene Joseph Joslyn Jr.
Macon, GA
James Logan Joyce
Charlottesville, VA
Kathleen Marie Joyce
Wake Forest, NC
Lauren Anne Joyner
Chapel Hill, NC
Christopher Brooks Kamszik
Richmond, VA
Benjamin Cafritz Karb
Morgantown, WV
Patrick Lee Kartes
Winston-Salem, NC
Amber Kishin Kauffman
Indianapolis, IN
Joseph Daniel Kaye
Fall River, MA
Matthew Wayne Keene
Pinnacle, NC
Jeremy Shannon Keever
Greensboro, NC
James Charles Keister
Goldsboro, NC
Adam Strickland Keith
Durham, NC
Rhonda Baker Kelley
Durham, NC
Heather Lynn Kelly
Greenville, NC
Katherine Thomas Kelly
Raleigh, NC
Michael Hugh Kelly
College Park, MD
Michael Robert Kelly
Winston-Salem, NC
Stephanie Leigh Kelly
Durham, NC
James Wyatt Kendall
Chapel Hill, NC
Mark Nathan Kerkhoff
Charlotte, NC
John David Kernodle
Durham, NC
Kristi Ann Kerr
Cary, NC
Aisha Khan
Durham, NC
Chavi Satya Khanna
Durham, NC
Drew Kyle Kifner
Durham, NC
William Michael Kilgore
High Point, NC
Nancy Hoyoung Kim
Carrboro, NC
Unyoung Kim
Wonju,Gangwondo
William Lee Kimmey Jr.
Chapel Hill, NC
Holly Margaret King
Raleigh, NC
Margo McConnell King
Tallahassee, FL
Harold Lloyd King Jr.
Raleigh, NC
Hassan Terrance-Craig Kingsberry
Youngsville, NC
William Charles Kinney
Columbia, SC

Kristen Marie Kirby
Winston Salem, NC
Christopher David Kishbaugh
Durham, NC
Benjamen Edward Klein
Greensboro, NC
Thomas Francis Kleissler
Chapel Hill, NC
Amanda Louise Klinger
Cuyahoga Falls, OH
Joshua Townsend Knipp
Winston-Salem, NC
Erica Rae Knott
Lexington, VA
Yunju Ko
McLean, VA
Kelly Ann Koeninger
Charlottesville, VA
Taji None Kommineni
Asheville, NC
Deborah Brooke Koslin
atlanta, GA
Stanimir Nikolaev Kostov
Williamsburg, VA
Todd Phillip Kostyshak
Winston Salem, NC
Rishi Jayesh Kotiya
Atlanta, GA
Stephen Scott Krake
Carbondale, IL
Jennifer Moehring Kuhn
Raleigh, NC
Andrew Michael LaBreche
Lansing, MI
Heather Renee' Wilson Lacey
Weaverville, NC
Susan Pepper Lagana
Charlotte, NC
Barbara Joicey Lagemann
Chapel Hill, NC
Steven Matthew Laird
Buies Creek, NC
Jennifer Katherine LaMonte
Columbia, MD
Misti Michelle Landry
Clinton, MS
Jason Brett Langberg
Medford, MA
Kathryn Leighann Lannon
Washington, DC
April LaRegina
Durham, NC
Angela Dawn Lassiter
Asheboro, NC
Matthew Paul Latrick
Williamsburg, VA
Jamie Theodore Lau
Durham, NC
Lydia Bree Laughrun
Charlotte, NC
Katherine Young Lavoie
Saxapahaw, NC
Brian Kermit Law
Cary, NC
Matthew McLain Lawless
Durham, NC
Erin Ruth Leach
Greensboro, NC
Kathryn Mae LeBaube
Grundy, VA
Jacqueline Michelle Adams Ledford
Greensboro, NC
Norman Ace Lee
Charlotte, NC
Stanley Lewis Lee II
Garner, NC
James Whitfield Lee III
Saluda, NC
Gretchen Eleanor Leehr
Milwaukee, WI
Norman James Leonard
Greensboro, NC
Aaron Edward Leviten
Apopka, FL
Jeffrey Phillip Lewis
Greensboro, NC
Stephanie Dawn Lewis
Raleigh, NC
William Holmes Lilley III
Greensboro, NC
Wendy Jean Lindberg
Durham, NC
Mia Diane Lindquist
Chapel Hill, NC
Isaac Augustin Linnartz
Durham, NC
Adjoa Panyin Linzy
Durham, NC
LaTonya Michelle Lipscomb
Orlando, FL
Tana Renee Liu-Beers
Durham, NC
Melissa Catherine Starr Livesay
Lillington, NC
Mollie McQueen Livingston
Lumberton, NC
Patrick Ryan Lockamy
Albany, NY
Carrie Anderson Lofthus
Virginia Beach, VA
Ronald Wilson Loftis III
Nashville, TN
Cherie Nannette Long
Durham, NC
Maximilian Longley
Durham, NC
Yuliya Loshinsky
Raleigh, NC
Theodore Roger Lotchin
Chapel Hill, NC
Nicolas Hendrik Lovelace
Winston-Salem, NC
Steven Andrew Lucente
Greensboro, NC
David Andrew Lukach
Winston-Salem, NC
Brian Lawrence Lutz
Greensboro, NC
Jennifer Barker Lyday
Yorktown, VA
Chance Donwan Lynch
Durham, NC
David Charles Lynch
Charlotte, NC
Jennifer Lynn Ma
Durham, NC
Heather Michelle MacDonald
Albany, NY
Kathryn Fairchild MacGregor
Williamston, MI
Amy Langston Mackin
Durham, NC
Alison Lynette Maddux
Statesville, NC
Neil Christopher Magnuson
Chapel Hill, NC
Meghan Elizabeth Maguire
Saint Petersburg, FL
Joshua David Mahan
Durham, NC
Michael Shawn Maier
Winston Salem, NC
Christopher Lynn Main
Statesville, NC
Jessica Marie Major
Durham, NC
Stefanie Josephine Malone
Bronxville, NY
Charles Hayes Mann
Durham, NC
Kellie Dorise Mannette
Chapel Hill, NC
Jennifer Nicole Manring
Winston-Salem, NC
Marcia Andre Marsellus
Fort Mill, SC
Jennifer Watson Marsh
Chapel Hill, NC
Kalita Denise Marsh
Smithfield, NC
Jonathon Adam Martin
Chapel Hill, NC
Michael Leon Martinez
Chapel Hill, NC
Jeffrey Stewart Marvin
Durham, NC
Carmen Joseph Marzella
Cary, NC
Anthony George Masino
Chapel Hill, NC
Susan Eleanor Massey
Durham, NC
Barrett McKinley Matthews
Charlotte, NC
LaShonda Renea Maxfield
Fayetteville, GA
Rebecca Marie Maxwell
Miami, FL
Robert Thomas May Jr.
Durham, NC
Aaron Cole Mayer
Winston-Salem, NC
Stacy Julian Maynor
Durham, NC
Ashley Elizabeth McAulay
Raleigh, NC
Carrie Lynne McCann
Raleigh, NC
Robert Jordan McCarter
Durham, NC
Alicia Danielle McClendon
Durham, NC
Dustin Carl McClimon
Cincinnati, OH
Rashonda Shari McClinton
Charlotte, NC
Meghan French McClure
Charlotte, NC
Scott Justin McCormick
Winston Salem, NC
Dustin Spencer McCrary
Chapel Hill, NC
Matthew Learned McCrystal
Wilmington, DE
Elizabeth Susanne McCurry
Newton, NC
Justin Benjamin McCurry
Raleigh, NC
Maureen Rose McDonald
Winston Salem, NC
Michael Kyle McEnery
Raleigh, NC
Barrett William McFatter
Black Mountain, NC
Jerrell Davis McGee
Trinity, NC
Jarrett Warren McGowan
Lillington, NC
Michael Daniel McGrath
Jacksonville, FL
Emily Mairi McIntosh
Columbia, SC
Stephen Christopher McIntyre
Durham, NC
Jason Mark McKenna
High Point, NC
Jessica Molly McKenzie
Grundy, VA
Jeffrey Douglass McKinney
Winston Salem, NC
Adam Barrett McLamb
Lillington, NC
Catherine Lee McLean
Winston Salem, NC
Frankie Lafon McLean
Durham, NC
Mary Elizabeth McLean
Raleigh, NC
David Wilson McPhail
Lillington, NC
Robert Hall McWilliams Jr.
Columbia, SC
David Lee Meek
Macon, GA
Margaret Jeanne Megerian
Raleigh, NC
Viral Vikram Mehta
Charlotte, NC
Sarah Christine Mele
Chapel Hill, NC
Timothy M. Melton
Wake Forest, NC
Jeremy Daniel Melville
Rock Hill, SC
Krystle Franchesca Melvin
Charlottesville, VA
Eric Steven Meredith
High Point, NC
Ida Barbra Mesch
Raleigh, NC
Angelo Mathew Metaxatos
Miami, FL
Melissa Julia Michaud
Chapel Hill, NC
James Avery Miles
Miami Beach, FL
Andrea Michelle Miller
Chapel Hill, NC
Andrew Thomas Miller
Winston-Salem, NC
Jason Andrew Miller
Fuquay Varina, NC
William Thompson Miller
Winston-Salem, NC
David Edward Miller III
Chapel Hill, NC
Megan Ashley Milliken
Lillington, NC
Samuel Earl Mills
Raleigh, NC
James Kevan Minick
Charlotte, NC
Albert John Minn
Raleigh, NC
Justin Lee Minshew
Princeton, NC
Amanda Elaine Mitchell
Sutherland, VA
Catherine Earl Mitchell
Durham, NC
Molly Jane Mitchell
Charlotte, NC
Felicia Louise-Wright Mitichell
Arlington, VA
Matthew William Modell
Chapel Hill, NC
Jeffrey Robert Monroe
Chapel Hill, NC
Amy Gibson Montague
Charlotte, NC
Amanda Kay Moore
Lansing, MI
Clinton Funderburk Moore
Greensboro, NC
Emily Catherine Moore
Lillington, NC
Lisa Laney Moorehead
Charlotte, NC
Natalie Teague Morales
Greensboro, NC
Holly Anne Morgan
Winston-Salem, NC
Tiffany Dustina Morgan
Grundy, VA
Jamilah Malika Morris
Raleigh, NC
Jeffery James Morris
Columbia, SC
Anthony Ryan Morrow
Durham, NC
Sean Patrick Mulligan
Charlotte, NC
Jason Paul Murphy
Fuquay Varina, NC
Christina LaVon Murray
Durham, NC
Noel Myricks
Apex, NC
Jordan Paul Nabb
Matthews, NC
Chaudary Husain Najmi
Alexandria, VA
Jennifer McArthur Nathan
Edenton, NC
Eugene Thomas Naughton
Winston Salem, NC
Amy Murphy Navejas
Lillington, NC
Charlene Brown Nelson
Clayton, NC
Jessica Elaine Nelson
Lexington, VA
Steven Sibley Nelson
Charlotte, NC
Andrew Thomas Nettleman
Greensboro, NC
Summer Marie Nettleman
Greensboro, NC
Jenelle Lynn Neubecker
Winston-Salem, NC
Dena Nicole Neunzig
Charlotte, NC
Michael Gregory Newell

Morrisville, NC
April Renee Newkirk
Raleigh, NC
Kenneth Scott Newton
Raleigh, NC
Lauren Oriana Newton
Gastonia, NC
Bao Nguyen
Chapel Hill, NC
Meghan Ione Nicholson
Charlotte, NC
Peter Phelps Nicholson
Winston-Salem, NC
Heather Anne Nicolini Wade
High Point, NC
Elyse Carmen Nieves
Chapel Hill, NC
William Lewis Nimick
Lillington, NC
Brook Livingston North
Durham, NC
Catherine Frances Noyes
Columbia, SC
Saman Nozari
McLean, VA
Neil Thompson Oakley
Burlington, NC
David Keith Oaks
Punta Gorda, FL
Kristen Elizabeth Oberg
Durham, NC
Justine Samantha O'Connor-Petts
Hillsborough, NC
Shannon Lee O'Donnell
Greensboro, NC
Sarah Cook Oettinger
Chapel Hill, NC
Michele Nneka Okoh-Bernis
Durham, NC
Justin Christopher Olsinski
East Norwich, NY
Sean Michael Olson
Greensboro, NC
Sean Robert O'Mara
Pontiac, MI
Mary Margaret O'Rourke
Durham, NC
Zachary John Orth
Chapel Hill, NC
Autumn Danielle Osbourne
Durham, NC
Kyle Richard Szymczak Ostendorf
Greensboro, NC
Lauren Mileo O'Sullivan
Charlotte, NC
Dawn Marie Oxendine
Pontiac, MI
Travis Lloyd Packer
Carrboro, NC
Anderson Proctor Page
Winston-Salem, NC
Travis Gene Page
Chapel Hill, NC
Cassandra Mae Painter
North Myrtle Beach, SC
Gavin Scott Painter
Greensboro, NC
Patrick Adam Pait
Coats, NC
Frank John Palmeri
Mills River, NC
Phavady Panyanouvong
Durham, NC
Bryan Philip Parker
Durham, NC
Richard Isaac Parker
Benson, NC
Richard Sandford Parrotte
Mount Pleasant, SC
Jennifer G. Parser
Raleigh, NC
John Phillip Paschal
Greensboro, NC
Mark Anthony Pataky
Ann Arbor, MI
Deven Nagar Patel
Chapel Hill, NC
Mital Mahendrakumar Patel
Greensboro, NC
Neal Ashvin Patel
Huntersville, NC
Yagnesh Dilip Patel
Syracuse, NY
Cory Bradley Patterson
Winston-Salem, NC
Lee Austin Patterson III
Richmond, VA
Trena Marie Patton
Valparaiso, IN
Gregory Edward Pawlowski
Sandusky, OH
Heather Nicole Payne
Lillington, NC
Christopher Lee Peebles
Grundy, VA
Robert C. Peithman
Columbia, SC
Katherine Heath Pekman
Winston-Salem, NC
Mary Fletcher Pena
Chapel Hill, NC
Shannon Alaine Penland
Jacksonville, FL
Michael Menno Vincent Pennink
Chapel Hill, NC
Abigail Elizabeth Peoples
Williamsburg, VA
Terry Gregory Perry
Charlotte, NC
Carver Clarke Peterson
Durham, NC
William Carl Petraglia
Pittsburgh, PA
Julia Christina Petrasso
Melrose, MA
Sarah Elizabeth Pfau
Chapel Hill, NC
Jennifer Amy Phillips
Greenville, NC
Shannon Lee Phillips
Memphis, TN
Mark Jason Pickett
Chapel Hill, NC
Benjamin Charles Pierce
Burlington, NC
Jared Wallace Pierce
Durham, NC
Tyler Lee Pierce
Charlotte, NC
Carla Dale Pike
Siler City, NC
Winona Ann Pilkington
Matthews, NC
Meredith Anne Pinson
Winston-Salem, NC
Joshua Ryan Pinyan
Salisbury, NC
John Bradford Pittman
Charlotte, NC
Derrick Ahmod Pitts
Fayetteville, NC
Charlie Joseph Hunter Plemmons
Fuquay Varina, NC
Katie Elizabeth Ploghoft
Chapel Hill, NC
Jennifer MacIntosh Pope
Alpharetta, GA
Norman Charles Post III
Charlotte, NC
Mary Rebecca Poteat
Mt Airy, MD
Brian Douglas Powell
Carrboro, NC
Lindsey Ellis Powell
Lansing, MI
Norman Donald Praet
Durham, NC
Vincent Louis Prandi
Fort Mill, SC
Melissa Pricilla Pressley
Durham, NC
Amanda Grace Presson
Durham, NC
Amber Marie Price
Charlotte, NC
Leslie Brooke Price
Greensboro, NC
Meghan Elizabeth Beeler Pridemore
Wake Forest, NC
Leslie Marie Pugh
Virginia Beach, VA
Sheena ReNae Pulley
Flowood, MS
Rachel Jean Purvis
Shallotte, NC
Jonathan William Puryear
Concord, NC
Cristina Segui Quantock
Hope Mills, NC
Esther Felicia Queen
Brodnax, VA
Nolana Ranell Quince
Raleigh, NC
Heather Erika Quinn
Greensboro, NC
Matthew Dowdy Quinn
Lillington, NC
Rasha Qumsiyeh
Cleveland Heights, OH
Christopher Harold Rahilly
Greensboro, NC
Eric Edward Rainey
Urbana, IL
Jennifer Iliana Ramirez
Durham, NC
Tram Ngoc Rattanavong
Burlington, NC
Rebecca Ann Rausch
Greensboro, NC
Patrice Nicole Ray
Raleigh, NC
Ray Wallace McCord Rayburn
Chapel Hill, NC
Katherine Adkins Rech
Charlotte, NC
Candice Lee Reese
Greensboro, NC
Aaron Michael Reeves
Hickory, NC
Lauren Victoria Reeves
Greensboro, NC
Margaret Louise Reeves
Marshall, NC
Erin Jennings Regel
Raleigh, NC
Brian Joseph Register
Raleigh, NC
Christopher Lee Register
Washington, DC
Stephanie Diane Render
Charlotte, NC
Amalia Mercedes Restucha
Chapel Hill, NC
Miranda Gail Reynolds
Greensboro, NC
Andrew Charles Rheingrover
Winston-Salem, NC
Jonathan David Rhyne
Raleigh, NC
David Austin Ribelin
Greensboro, NC
James Michael Richardson
Durham, NC
Julie Renee Richardson
Lillington, NC
Keith Edward Richardson
Virginia Beach, VA
Matthew Hale Richardson
Fayetteville, NC
Polly Cothran Richmond
Charlotte, NC
Philipp Constantin Richter
Cleveland, OH
Marlo Brooke Ricks
Lillington, NC
Lauren Alicia Rico
Malibu, CA
Ronald Tyler Ridout
Chapel Hill, NC
Allison Jean Riggs
Gainesville, FL
Kristen Yarbrough Riggs
Raleigh, NC
John Peter Ripley
Knoxville, TN
Sherry Leigh Risley
Durham, NC
David Ellis Roberts
Greensboro, NC
Tanisha Lashawn Robertson
Durham, NC
Devire' M. Robinson
Elizabeth City, NC
Kelly Brooks Robinson
Kernersville, NC
Sarah Katherine Robinson
Greensboro, NC
Stephanie Nicole Robinson
Durham, NC
John William Rockers
Carrboro, NC
Susan Courtwright Rodriguez
Arlington, VA
Kathryn Elizabeth Roebuck
Winston Salem, NC
Ashleigh Nicole Rose
Raleigh, NC
Timothy Wayne Ross
Durham, NC
Jonathan Van Rountree
Apex, NC
Guy Dawson Rouse III
Cary, NC
Eric Wade Rowell
Garner, NC
Sterling Price Rozear
Durham, NC
Adam Lee Rucker
Durham, NC
Shaquana Lashea Rudolph
Durham, NC
Sara Elizabeth Russell
Raleigh, NC
Patrick Lum Ryan
Augusta, GA
Kathryn Anne Sabbeth
Washington, DC
Steven David Sadler
Charlotte, NC
Joshua Ryan Saliba
Durham, NC
Mark Daniel Sanofsky
Pittsburgh, PA
Diana Sachiko Santiago
Cary, NC
Diana Santos
Durham, NC
Armine Amy Sarkissian
Durham, NC
Linda Diane Sartin
Charlotte, NC
Albert Lochra Saslow
Greensboro, NC
Frank Eugene Schall
Winston-Salem, NC
William Clayton Scheffel
Winston-Salem, NC
John Angelo Schena III
San Diego, CA
Danielle Rae Schmidt
Winston Salem, NC
Diane Rice Schnell
Kenner, LA
Halsey Overton Schreier
New York, NY
Sheri Lee Schwab
Durham, NC
Leighton Bruce Scott
Winston Salem, NC
Mary Elise Scott
Columbia, SC
Roderick William Scott
Raleigh, NC
Ronald Scott Jr.
Jacksonville, FL
Heather Elaine Seals
Valparaiso, IN
Angeline Djaaliyah Serushyana-Bettis
Raleigh, NC
Cerene Oceana Setliff
Winston-Salem, NC
Robert Vincent Shabkie
San Diego, CA
Christina Marie Shackelford
Jacksonville, FL
Kimberly K. Shaftner MD
Chesapeake, VA
Seema Prakash Shah
Jamestown, NC

Jennifer Elaine Sheets
Apex, NC
Michael Lee Shepherd
Raleigh, NC
Kindl Alia Shinn
Concord, NC
James Adam Sholar
Dunn, NC
Stephen Ryan Shortt
Charlotte, NC
Timothy Marc Shropshire
Angier, NC
Ann Margaret Shy
Efland, NC
Kellen Ruth Sibley
Charlotte, NC
Kerri Lee Sigler
Greensboro, NC
Megan Nicole Silver
Greensboro, NC
Janelle Jill Silverman
Cary, NC
Avery Ann Simmons
Washington, DC
Paulene Angelicia Simmons
Zebulon, NC
Holly Catherine Sims
Raleigh, NC
Patricia Leigh Sindel
Durham, NC
LaVerne W. Singleton II
Raleigh, NC
Jamison Howell Sites
Raleigh, NC
Bryan Lee Skelton
Apex, NC
Caroline Campbell Smiley
Chapel Hill, NC
Benjamin Skardon Smith
Raleigh, NC
Chad Rollon Smith
Bryson City, NC
Corby Collins Smith
Charlotte, NC
Erin Elizabeth Smith
Winston Salem, NC
Janet Rebekah Smith
Winston-Salem, NC
Jarrad Anthony Smith
Winston-Salem, NC
Julie Beth Smith
Charlottesville, VA
Katrina Louise Smith
Raleigh, NC
William Judson Smith
Chapel Hill, NC
Jessica Smith-Kaprosy
Carrboro, NC
Travis Lee Smuckler
Knoxville, TN
Zachary Richard Snyder
Greensboro, NC
Ross Stuart Sohm
Charlotte, NC
Robert Anthony Solano
Chapel Hill, NC
James Martin Soliah
Iowa City, IA
Raymond Donald Solomon Jr.
Winston-Salem, NC
Kellie Suzanne Southard
Yadkinville, NC
Beverly Routh Spencer
Troy, NC
Erica Caroline Spencer
Washington, DC
Steven Luther Spencer II
Greensboro, NC
Christopher Leonard Spinelli
Chesapeake, VA
Gregory David Spink
Charlotte, NC
Christine Marie Sprow
Winston Salem, NC
Garrett Stephen Sprowls
Winston Salem, NC
William Curtis Keller Stackhouse
Chapel Hill, NC
Krista Ann Stallard
Charlotte, NC
Allison Carole Standard
Fuquay Varina, NC
Christian Hart Staples
Raleigh, NC
Josh Gregory Starin
Durham, NC
Tiffany Bowers Stark
Greenville, NC
David Bryan Starrett Jr.
Charlottesville, VA
Stephanie Kay Steiger
Greensboro, NC
Jeffrey Barnes Stephenson Jr.
Chapel Hill, NC
Jordan Garrett Stewart
Jacksonville, FL
Lisa Ann Stewart
High Point, NC
Ryan Hamilton Stewart
Mebane, NC
Tracy Nicole Stewart
Chapel Hill, NC
William Stewart
Durham, NC
Anna Caylin Stites
Chapel Hill, NC
Beth Ellen Stockwell
Shelby, NC
Christine Fields Strader
Reidsville, NC
Sally Catherine Strauss
Charlotte, NC
Andrew Braxton Strickland
New York, NY
Lauren Elizabeth Strobel
Elizabeth City, NC
Alexis Nicole Strombotne
Raleigh, NC
John Davis Stroud
Charleston, SC
Tracy Humphrey Stroud
Buies Creek, NC
Patrick Thomas Strubbe
Nashville, TN
Alexander Buchanan Stubbs
Miami, FL
Richard Jeremy Sugg
Lillington, NC
Christopher Lin Suggs
South Royalton, VT
Allison Yvette Summerville
South Royalton, VT
Nathan Edward Sweet
Lynchburg, VA
Jesse Cowles Tally
Charleston, SC
Justin Ryan Taylor
Elizabethtown, NC
Meredith Brewer Taylor
Austin, TX
Carrie Beth Temm
Kansas City, MO
Adam Chilton Terminella
Fullerton, CA
John Allen Thomas
Columbia, SC
Dale Lionel Thomas Jr.
Raleigh, NC
Brian Scott Thomley
Orange, CA
Barron Lloyd Thompson
Walkertown, NC
Christopher David Thompson
Chapel Hill, NC
Julia Forbes Thompson
Winston Salem, NC
Tad Edward Thompson
Kansas City, MO
Ryan Everett Thum
Shawsville, VA
Daniel Edward Tierney
St. Louis, MO
Matthew Felton Tilley
Chapel Hill, NC
Lindsay Bronwen Tingley
Winston-Salem, NC
Allen Torres
Charlotte, NC
Amy Michelle Townsend
Pleasant Garden, NC
Kevin Roger Tran
Nashville, TN
Allen Nelson Trask III
Raleigh, NC
Elizabeth Ellen Trivette
West Jefferson, NC
Philip Benjamin Trotter
Charleston, SC
Brian Patrick Troutman
Concord, NC
Elizabeth Lyn Troutman
Carrboro, NC
Justin Gregory Truesdale
Nashville, TN
John Paul Tsahakis
Chapel Hill, NC
Emily May-Lee Tseng
Chapel Hill, NC
Sharon Lee Tucker
Coats, NC
Anthony Richard Tuorto
South Royalton, VT
Ross David Ullman
Columbus, OH
Starling Bernard Underwood III
Durham, NC
Elizabeth Labaredas Valdegas
Quincy, MA
Ryan Armando Valente
Greensboro, NC
Stephen James Valentine
Durham, NC
Donald Robert van der Vaart
Raleigh, NC
Peter Bartholomew Van Roten
Greensboro, NC
Shera Kathleen Varnau
Atlanta, GA
Casey Christopher Varnell
Macclesfield, NC
Garima Varshney
Richmond, VA
Bobak Vazeen-Motlagh
Charlotte, NC
Ryan Jacob Velderman
Winston-Salem, NC
Kimberly Jane Hoshino Velez
Chapel Hill, NC
Stephanie Cari Vellios
Coral Gables, FL
Carrie Freeman Vickery
Greensboro, NC
Alexander Francis Vitale
Naples, FL
Michael James Volpe
Clemmons, NC
Christine Wilhoit Volponi
Charlotte, NC
Leslie Marie Wagner
Winston-Salem, NC
Jacob Alexander Wagoner
Boonville, NC
John Lawrence Wait
Burlington, NC
Matthew Todd Wakefield
Arcadia, CA
Ursula Lee Walder
Tobaccoville, NC
Joan Marie Waldron
Charlotte, NC
Francis David Walker
Bangor, ME
James Robert Walker Jr.
Monroe, NC
Daniel Edward Wall
Bexley, OH
Chevonne Rene' Wallace
Lillington, NC
Kris Andrew Wampler
Charlotte, NC
Gregory Frederick Ward Jr.
Fort Mill, SC
Jacob Edwin Warren
Raleigh, NC
James Matthew Waters
Lillington, NC
Thurston Holderness Webb
Winston-Salem, NC
Jason Patrick Wedekind
Chapel Hill, NC
Caroline Frances Weeks
Lillington, NC
Jaimee DeLynne Weidert
Belmont, NC
Aaron Charles Weiner
Matthews, NC
Julie Shore Weissman
Lillington, NC
Marshall Lesesne Werner
Spartanburg, SC
Dana Kroll West
Raleigh, NC
Elizabeth Anne West
Raleigh, NC
Marissa Amber West
Holly Springs, NC
Teige Leeann West
Lenoir, NC
Carroll R. Wheeler
Morganton, NC
Amanda Ruth Whiffing
Bloomington, IN
Emily Collins White
Durham, NC
Jeremy Ryan White
Greensboro, NC
Ann Stuart Whitehurst
Boone, NC
Lemuel Duncan Whitsett V
Raleigh, NC
Kimberly Eleanor Whyte
Nashville, TN
Charles Tyler Wichmann
Charlotte, NC
Kurt Robert Willems
Durham, NC
Alton Leroy Williams
Durham, NC
Amy Lynn Williams
Greensboro, NC
Andria Jacqueline Williams
Chapel Hill, NC
Carolyn Anne Williams
Philadelphia, PA
Dominique Wilson Williams
Raleigh, NC
Jonathan Lentine Williams
Durham, NC
LaRhonda Nicole Williams
Durham, NC
Nisha Gloria Williams
Durham, NC
Saleisha Nadia Williams
Durham, NC
Tashama Noni Williams
Chapel Hill, NC
Tracy Diane Williams
Oak Ridge, NC
Kevin Grant Williamson
Grundy, VA
Jillian Donison Willis
Chapel Hill, NC
Erin Crowell Wills
Durham, NC
Ada Katherine Wilson
Durham, NC
Duncan Graham Wilson
Winston-Salem, NC
Jonathan Wilson II
Kernersville, NC
Casey Michelle Winebarger
Raleigh, NC
Caroline Ann Wingate
Columbia, SC
Kurt Spencer Wittenauer
Saint Louis, MO
Christina Marie Wood
Cary, NC
Boyd Tyler Worley
Raleigh, NC
Paige Connor Worsham
Durham, NC
Parker McAlister Worth
Oxford, MS
Keayba McKenzie Worthington
Greensboro, NC
Virginia Elizabeth Worthy
Nashville, TN
Jonathan Andrew Wright
Winston-Salem, NC
Jennifer Rose Wyatt
San Francisco, CA

Sarah Hodges Wynn
Jonesville, VA
Eleftherios Othon Xixis
Greensboro, NC
Cary Nicholas Yacabucci
Charlotte, NC
Michal Ellen Yarborough
Chapel Hill, NC
Jarrunis Lumumba Yates
Rock Hill, SC
Jason Christopher Yoder
Brooklyn, NY
Andrew Tollison Yonchak
Athens, GA
Karen Marie Youmans
Charlotte, NC
Crystal-Gaye Melissa Young
Knoxville, TN
Virginia Evans Younger
Greensboro, NC
Erica Elizabeth Youngstrom
Shaker Heights, OH
Samantha Jo Younker
Raleigh, NC
Joanna Haiyoung Yu
Durham, NC
Jennifer Michele Zelvin
Port Saint Lucie, FL
John Philip Zimmer
Fort Mill, SC
Elizabeth Marion Zwickert Timmermans
South Bend, IN

LAP (cont.)

Finding a Belief in Another Way of Being

I am 34 and have not had a drink or used a drug in almost five years. My outlook on life is way better than it was five years ago. On the surface, the only thing that appears to have changed is that I do not drink. Somehow, taking alcohol away made room for other changes that have made my new outlook on life possible. If you are miserable (or people are telling you that you are a miserable person) and you get drunk when you do not really want to, then I want you to know that I believe there a is better way of living.

I never thought I had a drinking problem, and never considered stopping drinking. My problem was that I had bad luck. Even though I always excelled in sports and school, I never got the girl, the good job, or the praise I deserved. Everyone else coasted through life and when they did something wrong, they never got caught. I always got caught. In undergrad, I got drunk every chance I could. My school had lots of rules, and I broke a lot them. It was a miracle that I did not get kicked out because I was subjected to every conceivable disciplinary board there was. When I got in trouble, alcohol was somehow involved. I was either going to get drunk, drunk, or getting over being drunk.

After undergrad, I went into the military. Things were looking up because I was finally free from the fishbowl of scrutiny that I felt in undergrad. I mostly drank in moderation on weekdays, maybe a Thursday blow-out, but I got bombed every weekend. I would sometimes lose control of my drinking. In the first month of my first assignment, I did not make it to work until the afternoon because I got so drunk the night before that my alarm did not wake me up. Luckily, most of my unit was deployed and I was in charge of the rear detachment, so I did not get in trouble. My sergeants thought it was funny. (I had been drinking with them!) My fix was to have more than one alarm. (Later, for my last job before I quit drinking, I had three: clock radio, cell phone, watch.) My drinking increased in the military. I showed up many mornings to a sergeant saying, "Looks like you had a good time last night, sir."

Dissatisfied with the military and my life, I got out and found a civilian job. The job was okay, and it paid for frequent happy hours. I got drunk more often on weekday nights, and by the time I stopped drinking, showing up to work hungover was the rule not the exception. In addition to three alarm clocks, I had a hangover "kit" in my car: Visine and breath mints. Life seemed to be on a slow downward slide. Twenty pounds overweight, a girlfriend who drank like I did, and without a driver's license after being arrested for a DUI (on a Monday night), I still did not think alcohol was a problem. The job, my co-workers, bosses that did not understand how talented I was, bad relationships, bars that you had to drive to, my parents, the military, bad luck…these were my problems.

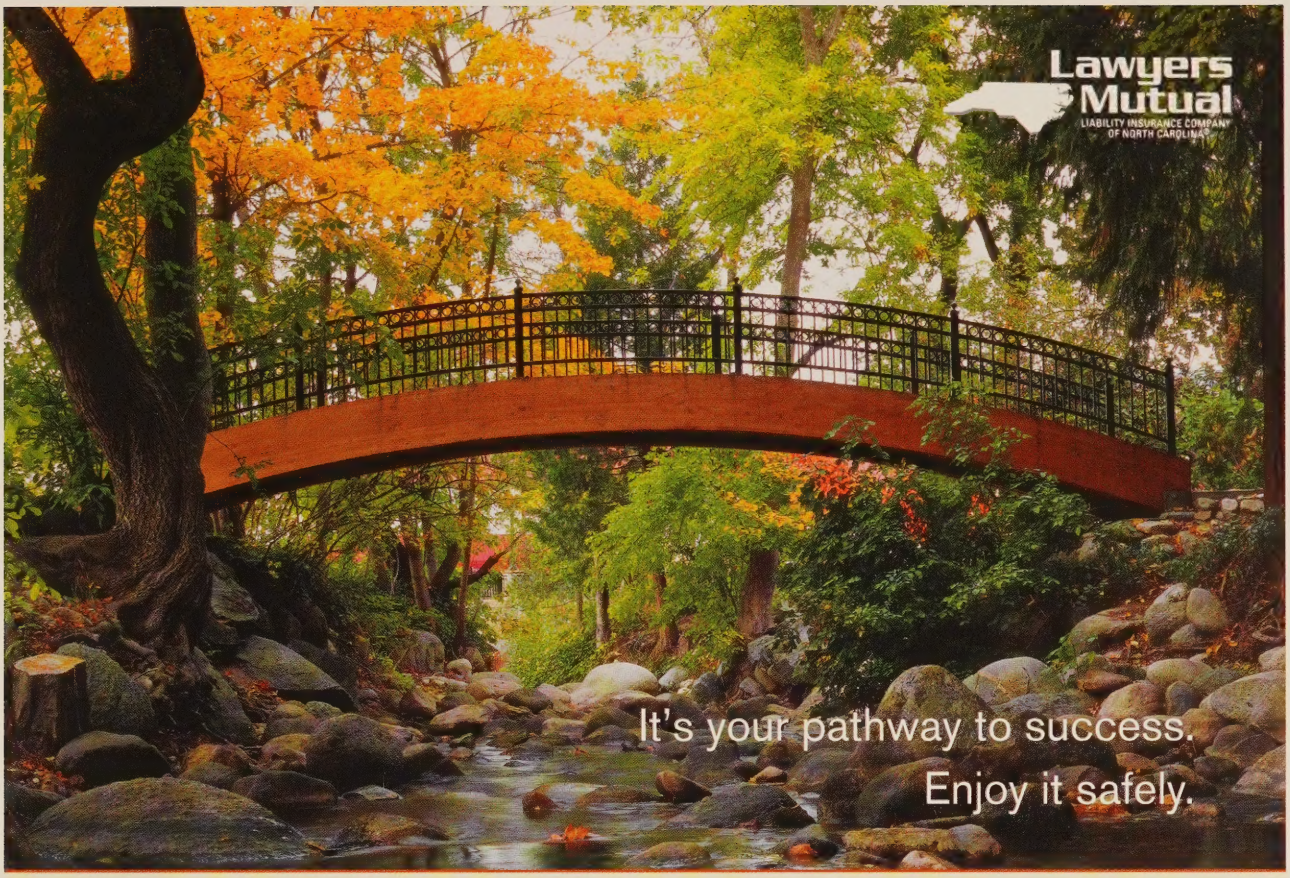
During this time, I talked frequently with an old friend. He told me that he had stopped drinking and his life was a thousand times better. I believed he meant it. But it did not register that stopping drinking would work for me. What stuck was that I knew someone who was my age and did not drink, and his life was better. It was the first time that I had considered that there was another way of living other than my way. Within a few months and with the "suggestion" of the court, I stopped drinking. The result was a physical miracle. I had forgotten what it was like to wake up not hungover. I started to feel better.

I tried a couple of Alcoholics Anonymous meetings, but found the people and the meetings weird. When the court supervision ended in July 2004, I found myself at the house of one of my military buddies. I said something like, "I've made it six months without a drink. I want a beer." He asked me if I was sure, I said yes, and he gave me one. From the first sip, I felt what little control had come back into my life slip away. I was so scared that I would go back to the way I lived and felt, that I did not have another. The road from that last drink until now has not been paved in gold, but the slow decline ended. Life is better than I thought it could be.

Part of my path from that last drink led me back to AA. The early enthusiasm from not waking up hungover faded, and I realized that staying sober might be more difficult than I thought. Or even worse, being sober may not be that great. I tried AA again and this time I felt more comfortable. There are many ways to stop drinking and stay sober. So far, AA has helped me. Without drinking, I have accomplished the following: finished law school, passed the bar, dated, watched college football, and started practicing law. I enjoyed them all except the bar exam, which could not be fun drunk or sober.

An important event for me was when I considered for the first time that my way of doing things did not work. But the turning point was when I believed that there was another way of living. My new attitude about life, even during the rough days, comes from within. This change could not have happened if I had continued to drink. I think I even have good luck now. I have stopped drinking and my life is way better. ■

The Lawyer Assistance Program is a confidential program of assistance for all North Carolina lawyers which helps lawyers address problems of stress, depression, addiction, or other problems that may lead to impairing a lawyer's ability to practice. If you are a lawyer, judge, or law student and would like more information, go to www.nclap.org or call toll free: Don Carroll (Charlotte and areas West) at 1-800-720-7257, Towanda Garner (Piedmont area) at 1-877-570-0991, or Ed Ward (Raleigh and down East) at 1-877-627-3743. Don is the author of A Lawyer's Guide to Healing, *published by Hazelden.*



919.677.8900
800.662.8843
Fax: 919.677.9641
www.LMLNC.com
LML@LMLNC.com

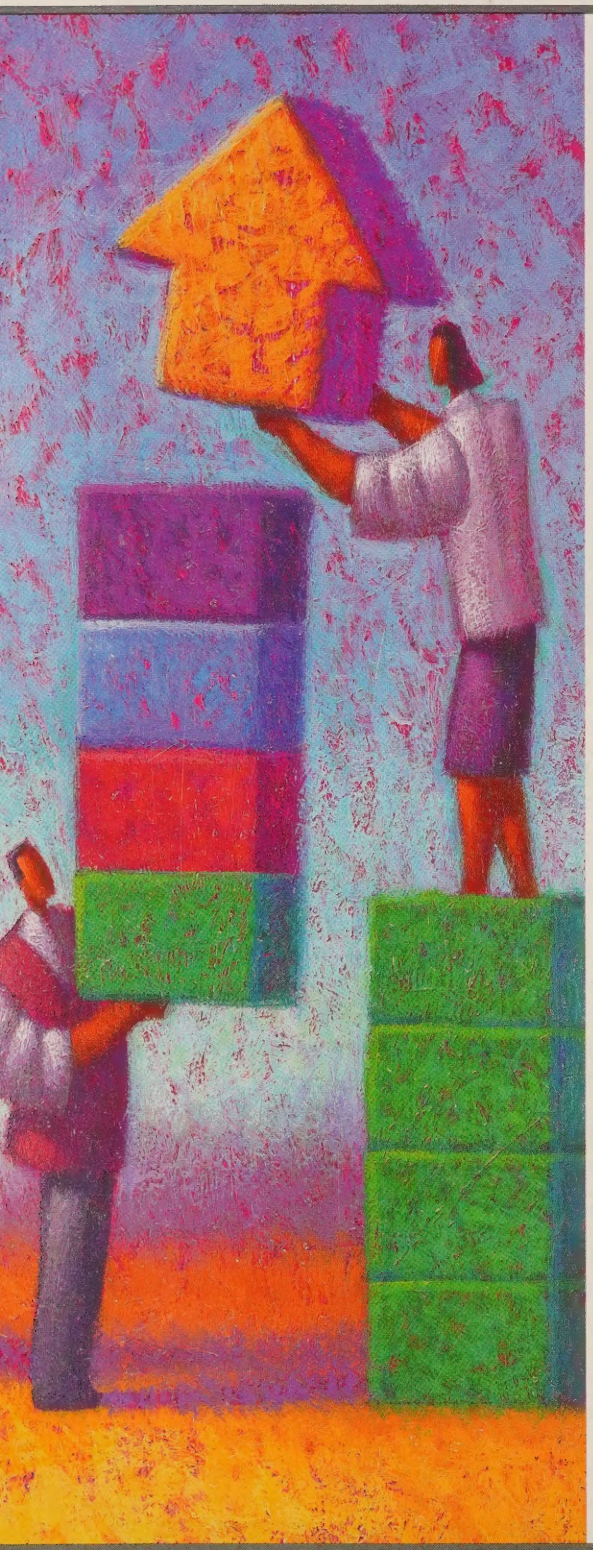
The journey from where you started to where you are going can be magnificent. But it shouldn't be risky. Identifying and avoiding the potential missteps that can threaten you along the way is the best plan for reaching your destination. Even simple oversights, like missed deadlines or poor communications with clients or staff can lead to career threatening consequences.

Lawyers Mutual Liability Insurance Company is founded, governed and staffed by experienced North Carolina attorneys, so we know how to guide you past hidden obstacles. With over 30 years of experience and nearly 8000 attorneys under our protection, we are especially well prepared to identify the hazards that are unique to your law practice. Our exceptional risk management programs help you to foresee and avoid liability problems, and our malpractice coverage is backed by an expert team of claims attorneys who boast a 90% rate of favorable outcomes when notified of a reparable error at the earliest possible date.

Let **Lawyers Mutual** help plan your journey, and you can enjoy it safely.

Lawyers Mutual. Think Ahead.

The North Carolina State Bar
PO Box 25908
Raleigh, NC 27611



Experience - Knowledge
Professional Reputation

The Building Blocks of Board Certification

- **Enhance Your Professionalism**
- **Increase Knowledge in Your Practice Area**
- **Demonstrate Your Skill and Experience**
- **Increase Business and Referrals**

The State Bar certifies attorneys as specialists in the following areas:

- Bankruptcy Law
- Criminal Law
- Elder Law (**New for 2009**)
- Estate Planning and Probate Law
- Family Law
- Immigration Law
- Real Property Law
- Social Security Disability Law
- Workers' Compensation Law

Applications are accepted annually in May – June.

Examinations given in November of each year.

CONTACT

JOYCE LINDSAY

(919) 828-4620

OR E-MAIL DENISE MULLEN

dmullen@ncbar.gov

www.nclawspecialists.gov

North Carolina State Bar Board of Legal Specialization